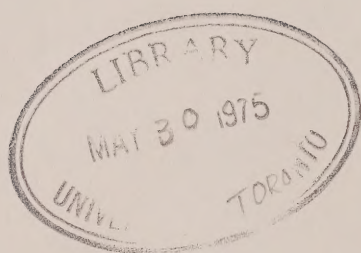


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REPORT OF THE ROYAL COMMISSION
ON CERTAIN SECTORS
OF THE BUILDING INDUSTRY



Report of the Royal Commission on Certain Sectors of the Building Industry

VOLUME TWO



QUEEN'S PRINTER FOR ONTARIO

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APPENDICES A-Q

APPENDIX A

Memorandum on the industrial relations features of the problem

H.D. Woods

I. GENERAL

The nature of industrial relations in any industry will reflect the character of the industry itself and the employment circumstances. This is a first approximation only and an over-simplistic one. It is an expression of the fact that industrial relationships are largely derivative. The parties involved directly, employers and their representatives, the managers, and employees and their agencies, the unions, are involved in a process of fashioning a set of relationships and rule-making whose purpose is to cope with the human problems of employment.

A comparative examination of collective agreements negotiated in a number of industries will reveal that there are quite significant differences in the provisions from agreement to agreement. Collective agreements in the mining industry, in steel mills, pulp and paper, textiles, garments, airlines, public service agencies – the number is endless – will all differ from one another in some degree. This means that each industry makes demands on employees which reflect the functions the management has identified with the various jobs or positions in the organization. These functions are themselves derived from the necessities of the industry concerned. The complex of jobs in a petro-chemical plant will show little resemblance to that of a department store or a printing plant or a garment factory. And the personnel policy of firms operating in these various activities will likewise differ one from another, reflecting the basic differences in the occupational functions themselves.

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Personnel policy formulation is a process of rule-making designed to control and direct the relationships of people at work. Starting times, length of shift, job composition, personal job qualifications, rates of pay, job responsibilities, relationship procedures, various rewards and penalties and a host of other factors concerning people at work make up the web of rules and regulations which reflect the personnel policy of an organization.

Usually personnel policy is thought of as the prerogative of the employer. In a non-union situation, the employer does in fact have control of the personnel policy, within the law. However, in a unionized operation the union participates in the evolution of the personnel policy through collective bargaining and consequent collective agreements, through day-to-day dealings with management regarding the application of the agreement, and indeed in joint consultation and discussion of matters not formally covered in the collective agreement. In other words, personnel policy becomes a joint product of the employer and union. The web of rules and regulations, the standards of wages and other employee benefits, and the procedures of the relationship are established by agreement between the employer and the collective agent of the employees, the union. Unilateral determination of the policy is replaced by a bilateral system.

There is an extremely important consequence that flows from this joint determination of the terms and conditions of work and the procedures of the industrial relationship. This is the effect of the presence of a union on the freedom of management to make decisions. Practically all clauses in a collective agreement contain an element of control over the management prerogative. An employer who agrees with a union to a specific set of wage minima is not only establishing an obligation to pay accordingly, but is surrendering his right to reduce these rates during the period of the union contract, and for an extended period as established in law, beyond termination. The same is true of all the other rights established by the agreement. The employer has simply given up sections of his jurisdiction or prerogative at least for a period of time. And while he can legally recover these prerogatives when the collective agreement ceases to have legal status, in fact there is little likelihood that the employer can in a succeeding contract eliminate anything which the union rates as important. It can be done, but the cost in industrial strife may be very great. Generally employers accept the loss of prerogative as gone more or less forever.

One fact, particularly relevant in this inquiry, and having an important influence on the kind of personnel policy which will emerge in a given situation is the expected duration of the period of employment. In most

manufacturing plants, commercial operations, transportation, and communications, and some other industries where the economic activity is more or less continuous, long periods of service are the order of the day. Collective agreements usually are beneficial to both employer and employee – to the employer because of the stabilizing effect of the agreement on his labour force, and to the employee because of the acquisition of rights and the presence of procedures for guaranteeing that these rights in the terms and conditions of work will be respected.

This point about continuity of employment is emphasized because it will be important later, when the lack of employment continuity in the construction industry is under examination. Collective bargaining in that industry produces not only major differences in results from those that emerge in industry generally, but also significantly alters the attitude of the parties towards personnel policy formulation itself and towards the administrative application of policy. As will be indicated later, it is perhaps not going too far to suggest that what may be considered normal for the relationships of labour and management in, for example, the manufacturing sector, is not applicable to the construction industry.

II. SPECIAL CIRCUMSTANCES OF CONSTRUCTION

Because of the nature of the construction industry, there are special problems in its union-management relations. Certain features of the industry, along with other characteristics common to industry in general, have the effect of building in a state of instability in construction which helps to explain the attitudes and behaviour of both those who act in entrepreneurial and managerial capacities and those who make up the employed workforce.

Five influences call for examination:

1. Construction cycles

Over the years construction volume has been highly volatile. The growth rate of construction is more erratic than that of the rest of the economy. The reasons for this unique behaviour of the construction sector are complex, but beyond the scope of this investigation. What is relevant and important is the recognition that cyclical expansion and contraction in the volume of construction is an important influence on the market for the various classes of labour employed in the industry. Construction is subject to periodic shortages and surpluses of labour because of this tendency to booms and recessions. Furthermore, the supply of labour, especially in the

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higher skilled trades, is relatively inelastic or unresponsive to changes in demand. Thus, shortage of supply for skilled workmen whose period of training to reach a satisfactory level of skill is relatively long and, consequently, increased wage rates may not in the short run do much to alleviate a labour shortage.

2. Seasonality

The construction industry had made progress in recent decades in solving the problem of seasonality. Techniques have been developed which make it possible to continue production throughout much of the year, even in the unfavourable winter months. Yet seasonality remains a factor influencing the volume of employment and adding a disturbing element to industrial relationships in the industry.

3. Project system

By far the most disruptive factor influencing employment and industrial relations is the project nature of the industry itself. Construction takes place on a given site over a period of time, at the end of which, when the structure is complete, the entire productive effort of all factors and agents, including labour, comes to an end. Once the building is finished, the demand for construction facilities on the site is ended. Construction employment drops to zero and the various contractors and subcontractors move on to other sites, usually with few or none of their former employees. In contrast to most manufacturing industries, the product of the construction industry is immobile. It provides its services on the site where it was produced, and the users of the structure 'consume' the services on the production site after the producers have departed.

It will be seen later that this basic discontinuity characteristic of construction is the source of much of the tension and conflict that plague construction labour relations and help to explain the actions, whether lawful or otherwise, which the involved parties may engage in as protective devices.

4. Technological change

Labour relations in most industries are influenced by change in the technology of production. Construction is no exception. Indeed much of the controversy and clash of interest recorded in the proceedings of this Commission is directly or indirectly related to the economic opportunities and the employment disruption associated with the introduction, or at-

tempted introduction, of such changes. But these changes bear with particular force on construction labour relations because of the discontinuity problem already mentioned. This point will be further elaborated later on.

5. *Inflation*

Much of the period under review has been marked by severe inflation. Undoubtedly construction labour relations have been influenced by the disruptive impact of rising prices which threaten real incomes of the employed labour force, by contract commitments of the employers which encourage them to strive for long-term contracts and to resist escalator clauses in collective agreements or wage adjustment during the life of an agreement. Recent demands in the industry, as well as in others, in some parts of the country for upward adjustments in wages during the life of the collective agreements indicate the problem of the unstabilizing effect of inflation and the threat it holds for viable collective bargaining relations.

III. STRUCTURE OF THE INDUSTRY

The key to much of the unique problem of industrial relations in construction is to be found in the structure of the industry itself. The industry functions through a system involving owners, entrepreneurs, general contractors, management companies, subcontractors or trade contractors, employees, and unions. As a means of emphasizing the relationships which develop in the contract and subcontract system in construction I shall present a short comparison with a manufacturing or commercial model.

A manufacturing or commercial business operation presents a picture of a group of interdependent specialized departments operating in accordance with some form of organizational plan held together by the authority of senior executives. The role of management is to integrate the work of all these functioning departments. The power to do so is the authority of management derived from the employer-employee relationship. If there are conflicts between or among departments they are resolved by the exercise of authority by the *common* senior management. All persons on the work-site engaged in production are employees of the one company. Management is monolithic in that it alone possesses the power to establish policy and issue instructions and orders.

If a union organizes the work force on an industrial basis the situation changes in that the unrestrained authority of the employer and his management becomes subject to the influence of the union. Jointly determined

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rules embodied in a collective agreement apply, but the employer retains the authority of management of the activities on the work-site, albeit one that must now respect any collective agreement it has signed with the union. But it is important to note that in the case of an industrial union agreement the union as sole negotiation agent has achieved a monolithic status on the labour representation side. In the process the responsibility for resolving conflicts of interest among worker groups is to a considerable extent transferred from the employer to the union. It is the union which must seek the compromises which will bring policy accommodations between and among unskilled and skilled, long- and short-service employees, and many other interest groups and factions. And parenthetically it usually does *not* possess the power of management authoritarianism to achieve these necessary accommodations, but must work its tortuous way through a form of democratic process.

Two other modifications to the model need to be made. In the first place, employers do frequently invite other employers to come on the production site and assume employer authority in certain operations. The device is subcontracting, and the areas affected are usually those that are not directly related to the production process for which the plant exists. Security guards, cafeterias, computer services, accounting, and so on are illustrations of this type of subcontracting. While such contracting-out is most prevalent in these ancillary services, it also occurs with regard to work directly involved in the production process. And it should be noted that even the industrial unions have tried to prevent contracting-out because of the threat it poses to the jobs of its members and to the unions presumed jurisdictions.

The effect of contracting out of work that would normally be undertaken by the union with an industrial agreement will be to confront the union with an employer with whom it may have no relationship. This could mean either jurisdictional conflict with another union, or the presence at the work-place of non-union men working at terms less favourable than those that apply to the unionized workers. Under the circumstances the union will attempt to protect itself either by preventing subcontracts or by unionizing the employees of the subcontractor.

The second modification of the model involves the situation where the work-force in a factory or service operation, for example, is split among several bargaining units, each represented by a different union. Thus, office employees, maintenance staff, stationary engineers, and others may each have a distinct bargaining unit of jobs and each its own unions, while

the bulk of the production staff may be represented by one of the industrial unions.

The employer's problem of personnel policy formulation becomes difficult because, while he provides a unity of authority on the one side, he is confronted with divided authority on the union side. While each union is confined to its own unit jurisdiction, the interplay of influences from one unit to another may be extremely important. The door is opened to tactical manoeuvring among the unions and by the employer also. Yet in practice the employer must work out through collective bargaining with all the unions a personnel policy which retains some semblance of rationality in spite of the independent unions representing interdependent functional groups. With several bargaining units the employer's role of personnel policy making is not surrendered, but it is made difficult by having to deal with independent union authorities for various segments of his workforce.

It has been noted that construction is largely on a project basis with the activity taking place on the site where the product is to be used. An additional element is vitally important – the contract and subcontract system. Contracting and subcontracting of the work on a construction site is the normal way of carrying on construction is a very large part of the industry. It is true that some construction is carried out without contracting to construction firms. In these cases the entrepreneur engages employees of the various trades in the numbers and at the times as needed. This is really the model of the manufacturing industry with the important similarity that there is only one employer on the site, and the important difference that the whole operation stops when the structure is complete. This construction without contractors is usually limited to small building structures and is relatively unimportant. It will be ignored in the rest of this report.

The normal system in construction is by contract and subcontract arrangements. If a builder signs a contract with a general contractor, the builder does not assume the role of an employer. The general contractor frequently does for part of the labour force employed on the site, but only to the extent that he undertakes part of the construction work himself. Much of the work will be done by trade subcontractors who undertake at the appropriate stage in the construction process to come on site with the necessary equipment and manpower required to contribute their specialized skills in accordance with the terms of the subcontract. When their part of the work is done they withdraw, to be replaced by another subcontractor and his workers whose contribution comes at a later stage. There is, of course, overlapping in time of trade specialities, so that several

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subcontracts are being carried out at the same time. Thus, throughout the construction period there is a succession of overlapping arrivals and departures of subcontractors.

IV. EMPLOYER INSTITUTIONS

Construction employers have established various associations to serve their particular interests. At the national level there is the Canadian Construction Association which engages in research, provides information to the industry, and engages in activities calculated to serve the interests of the industry with the public and the federal government. There are also provincial associations which function in somewhat the same way at the provincial level. The Ontario Federation of Construction Associations is one of these. Within Ontario there are a number of local or regional associations such as the Toronto Construction Association, the Ottawa Construction Association, the Sault Ste Marie Builders' Exchange, and the London and District Construction Association. While these local associations engage in a number of activities, some of them become involved directly or indirectly in collective bargaining. Since there is a tendency away from individual employer bargaining these local employer associations are likely to become more important, at least as far as industrial relations are concerned. But if the goal of some employers and unions towards province-wide bargaining on a trade-by-trade basis gains support, these local employer associations may become subordinate in the industrial relations area to more broadly based employer associations. The situation is fluid.

As indicated elsewhere in this report, employer associations now have available the instrument of accreditation which, while not yet widely used, probably will have the effect of stabilizing the associations and strengthening the management side in collective bargaining.

The construction industry in Canada has in recent years been developing specialized agencies concerned exclusively with labour relations. These usually take the form of a bureau of labour relations associated with a local employers' association. It is too early to draw any conclusions from the experience to date. Logically the existence of these agencies makes sense since they are concerned exclusively with industrial relations and can indulge in the luxury of a small professional bureaucracy which performs the functions of resolving conflicts of interest within the employer group and also handles the bargaining for the employers they represent.

V. EMPLOYEE ASSOCIATIONS

A major difference between the employer associations and that on the employee side is international character of the latter. Most unionized construction workers in Ontario are members of one or another of the international unions, so called because they operate in both the United States and Canada. The head offices of these international unions are in the United States and the Canadian locals are chartered by those offices. Their parent unions are affiliated with the AFL-CIO in the United States and are the components of the Construction Trades Department of that federation. The Canadian branches are affiliated with the Canadian Labour Congress, and provincially they may be affiliated with the various federations such as the Ontario Federation of Labour. Locals may be affiliated with local labour councils, and usually they are local councils of the same union in an area. There are also provincial groupings of the locals of a given group.

It is important to note that each of the international unions looks upon itself as sovereign in its own work jurisdiction and that bargaining authority is decentralized to a considerable degree. Consequently some unions bargain through individual locals and with single employers. Others bargain through individual locals and with associations of employers. Still others bargain through councils of locals with employer associations. And in a few cases a union may enter into a province-wide agreement.

Those who advocate broadening the geographic base of collective bargaining have to contend with the traditions of decentralized authority and the resistance to centralization this entails. Even more difficult is the task of those who favour multi-trade bargaining, which calls for not merely a shift of the decision-making authority within the union, but also requires surrender of sovereignty to some form of common agency.

There are in Ontario some construction unions that are not part of the international system. These independent unions are small and numerically insignificant. Yet, as will be seen later, the problem of accommodating the internationals and interdependents into a common system is formidable and nearly impossible. As will also be seen, in Quebec where the construction union independents make up a considerable percentage of the total, no satisfactory system of accommodation has been found. The latest legislative experiment is failing at present.

If the problems in the industry require changes in union structure construction labour relations are on a rocky road indeed.

VI. EMPLOYMENT RELATIONSHIP

It has been pointed out that in the manufacturing sector and other sectors where there is continuity of employment the relationship that develops between the employer or his managers and the employee is in some respects very different from employment relations in construction. Two basic differences are of particular importance. These are the impermanence of the work-site and the impermanence of the employer. Construction workers, as a normal experience, are frequently seeking employment with new employers, they also are moving from site to site.

Certain important consequences flow from this unstable employment relationship. First, there can be no career plan by an employer for his employees since the career with any employer is short term. This means that a personnel policy for any given firm is limited to the essential matters that are important for short-term employment. They are mostly confined to financial matters such as wages, although in unionized cases there will be additional employer financial commitments for welfare funds. Shift schedules will also be included. But the cluster of employee rights which in industrial situations are established on the basis of seniority will be largely absent from the personnel policy of a construction firm simply because the employment term is discontinuous.

Secondly, a logical consequence of discontinuity is the transfer of much of the personnel policy formulation from employer to the union. The union provides the only institution in the industry with which the worker can have a continuous relationship. Since the rules and standards applying to employees at the work place need to conform to some logic of consistency over a considerable period of time, and since the employer because of short employment periods cannot supply consistency of policy, the craft unions do it themselves. Construction industry collective agreements usually contain large segments taken from laws of the union enacted in its international conventions, plus certain local arrangements and local or regional rates.

While to the outsider this may take on the appearance of union arrogance, and while it may and does from time to time lead to abuse, it is wrong to assume that the solution to such abuses is to engage only in the negative exercise of resorting to various forms of restraint, including law enforcement. Undoubtedly there are circumstances that call for the protection of the courts, but there is also the need to consider the nature of the problem with which employers, employees, and unions in construction are struggling. The fact that construction unions attempt with much success to

impose rules and terms on employers must be recognized as a means of filling a gap which exists, not because of employers' abdication of their proper role of designing a personnel policy appropriate to their needs, but because of the fact that the short-term employment they can offer to their employees renders the kind of personnel policy appropriate in situations of employment continuity highly unsuitable and indeed unworkable from the employers' point of view in the construction industry. This basic problem will be explored further after examination of the goals of management and unions and consideration of the areas of conflict. Meanwhile it may be noted that the form of collective bargaining that applies reasonably well in industries of continuity on fixed sites is not suitable in construction.

VII. GOALS OF EMPLOYERS OR MANAGEMENT

The construction industry operates through contracts and subcontracts. As suggested earlier, only by this system is it possible to gain the economies of specialization which prevail in the industry. And perhaps it might be well to emphasize the fact already noted that the organization of employees into craft unions is a reflection of the trade specializations of the contractors rather than the reverse.

Specialization by subcontractors, while making possible certain economies, by the same token exposes the contractor to uncertainty and insecurity. It also makes solution of this problem a prime object of the contractors. Much of the evidence before the Royal Commission bears testimony to the efforts of contractors to increase their security of operation in an uncertain future.

A central characteristic of the enterprise system is competition, and this applies in construction as well as in other industries. Indeed it bears with particular severity on construction because long-term relationships between the customer, the builder, and vendor, the contractor, and subcontractors, such as can be established between manufacturers and their customers, are ruled out of construction by the nature of the industry. The builder of a high-rise office tower may be a customer for that kind of construction only once.

Public policy as reflected in combines legislation supports the principle and practice of competition as a means of protecting the public from concentrated control of supply resulting in price-fixing to the detriment of the consumer. Yet the history of investigations under the combines legislation suggests that in many areas efforts are made to limit competition. Construction contractors are no exception, if a considerable amount of the

testimony in the proceedings is to be believed. There are indications of at least two forms of action designed to reduce competition. There is the attempt to limit the number of contractors in sectors of the industry by various means, some of which involve collaboration between the combining employers and union officials; and there are attempts by contractors to determine among themselves the allocation of contracts among the group thereby influencing the contract price.

In certain sectors of the construction industry the amount of capital required to enter the industry is relatively light; or in other words, they are labour-intensive sectors. Entry is relatively easy. It is not uncommon for workmen to attempt to become small-scale contractors. In fact the proceedings reveal occupational histories of some men who have moved back and forth from workman to contractor, depending upon the state of the industry and their own personal fortunes. This pattern of industrial metamorphosis is more likely to occur in the residential sector where very little capital is needed than in the commercial and industrial sectors where capital requirements are heavier.

This ease of entry enhances competition and encourages contractors to limit their own numbers by establishing barriers to entry by new competitors. The goal is the reduction of uncertainty regarding future contracts.

It should be noted that the basic conflict in this regard is between and among businessmen and companies, although as will be indicated later situations will exist in which unions or union leaders, in self-interest, may make common cause with the employers with whom they have established relationships against other possible contractor competitors.

On the job-site the contractors and their managements are normally anxious to operate for as low a cost as they can. This means, among other things, that there is a need for an adequate supply of competent labour which may be acquired quickly, directed to maximize productivity, and terminated with ease on short notice. It is obvious that in these needs and interests of employers lie the seeds of conflict with labour and the construction unions.

VIII. THE GOALS OF EMPLOYEES AND UNIONS

Employees generally are interested in stable income, which is particularly uncertain in the construction industry, influenced as it is by cyclical and seasonal fluctuations and by frequent project terminations. Like all other segments of society employees also seek income increases.

Unions support employees in their demands by seeking to control the available job opportunities for their members, by negotiating wage rate increases and other financial benefits, and by assuring the continued existence and viability of the union itself.

While these goals of employees and unions seem obvious, attempts to achieve them leads to a very complex set of relationships among the unions and employers and employer organizations which are frequently accompanied by severe stress and which at times turn into covert conflict or open contestation.

IX. AREAS OF CONFLICT

Every employment situation involves both co-operation and conflict. Employment is co-operative in that the employer and his employees work for the common purpose of production, and it embodies conflict of interest because the achievement of individual goals involves a limit to goal achievement by other participants. Thus the employee's wage gain is the employer's cost increase. These conflicts of interest are not confined to employer vs employee situations only; nor are they limited to the wage issue alone, as will be seen by an examination of the construction industry.

Workers vs workers

Workers in a given trade or classification compete with one another for the available job vacancies. Since in construction workers enter the labour market fairly frequently, the way is open for this competition to take place frequently unless some system of control is used to limit or direct the competition.

Employees on the job may also be in competition with employees of other trades when there is overlapping of the functions which may be performed by members of different trades. Established trade jurisdictions may eliminate this problem of competition provided the employees in both groups recognize and respect the jurisdictional definitions. The transcripts reveal that jurisdictional conflict is one of the issues fomenting disorder in sectors of the industry in Ontario.

Technological change is one of the principal influences encouraging jurisdictional conflict. Inevitably the materials, tasks, and procedures included in the definition of a trade jurisdiction change through time. The introduction of drywall replacing plaster is a particularly relevant example. As this evolution in the technology of the industry progresses the original definitions show signs of obsolescence. Unions endeavour to catch up

either by amending their own jurisdictional definition or by reinterpreting it in day-to-day practice. If there is some system by which general agreement to these jurisdictional adjustments can be reached in the industry some degree of harmony can prevail. If not there is likely to be resort to methods of force.

Union vs union

Job and jurisdictional conflict among workers in the industry is reflected in the relationships among the unions who represent them, as the struggles among the plasterers, lathers, and carpenters unions reflected in the transcripts indicate. Unions seek to expand their control by organizing the employees of their trade in competition with other unions.

Similarly unions in the construction industry will protect their jurisdictions against either non-union labour and non-union contractors or competing unions by pushing certification, by pressuring non-unionized employers into signing collective agreements giving exclusive employment rights to their members, and by subcontract clauses which require subcontractors to adhere to the union agreement signed by the general contractor. There is a great deal of evidence in the transcripts to illustrate this process of union attempts at expansion.

Contractor vs union

There are two principal areas of conflict between contractors and unions. The first is institutional and revolves around the question of whether or not there is to be an established relationship between the union and the employer. This is the representational issue. Is the employer to deal with the union or not? The resolution of this conflict is not merely a matter for the union and employer. Employees also participate in the decision. They do so by providing membership and financial support to the union and in their actions in the voting constituency in certification cases before the Labour Relations Board.

The mere fact of acceptance of the union (as a bargaining agent) by the employer does not settle the question of recognition. There is also the question of the degree of recognition, and there is the related matter of function. Thus, in the construction industry the employers may accept the union as the source of labour supply, and leave to the union the employee selection function. The hiring hall is the instrument for performing these recruitment and selection functions, and it is controlled by the union. While similar provision may be found in collective agreements outside the construction industry, the surrender of function to the union is usually not so

extensive because the more stable employment relationship makes the control of employment less important to the industrial union. An employer outside construction may be forced to give priority of employment to his former employees before employing new workers, but he is usually not prevented from hiring independently when there are no qualified 'employees-on-lay-off' seeking to be re-employed by the employer. In construction, in contrast, the worker who has been laid off by an employer usually has quite limited recall rights if his former employer expands employment. Indeed, because of the construction workers' consciousness of the scarcity of jobs and the built-in phenomenon of employment instability, the principle of equitable sharing of job vacancies through the hiring hall 'longest out, first in' priority lists tends, in union policy, to replace the importance given to seniority by industrial unions, where more or less indefinite employment is assumed and periods of lay-off are expected to be followed by return to work for the same employee, with a continuation of accumulated rights and privileges built up during earlier periods.

Under these circumstances, a construction union's capacity to serve the interests of its members, and even its ability to survive, depends not upon the agreement it may have with a particular employer, but on the relationships it has with all the employers in a geographic area who hire the classes of workmen represented by the union. The complex of rules in construction that determine who will be employed by whom, and under what conditions, therefore, must be on a multi-employer and geographic basis whether or not the employers engage in single or associational bargaining with the union.

This point concerning the degree of union recognition in construction, or the extended role of the union in shaping an employment and personnel policy for its classes of workers to all employers in an area, is emphasized because it is related to fundamental conflicts between unions and employers as well as between unions and unions and even employers and other employers, and is at the centre of instability in the industry. It requires further elaboration.

The employer who attempts to operate independently of a union is a threat to the system of tradesman and union security which is central to the whole system of recognition, collective agreements, contracts and subcontract clauses, including the union's control over labour supply. An existing union can be threatened by an employer in a number of ways.

A non-unionized employer who is successful in bidding for a construction contract threatens the jurisdiction of the union which represents the class of workers employed by the non-unionized contractor. The tran-

scripts reveal that unions were prepared to tolerate non-union contractors usually only in small operations such as the house-building sector. In the commercial sector there was no place, in their view, for non-union contractors nor non-union men on the construction sites.

A contractor unionized by a competing union other than the union with a traditional 'property right' in certain territory and work is also a threat. Attempts by a unionized contractor to employ workmen, not members of the union, on the job-site always provoke strong reaction. Construction unions and those they represent do not tolerate invasion from any source.

It is therefore not surprising that construction unions should strive to put their relationship with the contractors and with other unions on a continuing and determinable basis in spite of, or indeed because of, the very discontinuity of the employment relationship. Hence the complex web of collective agreements based on a geographic bargaining unit, the use of subcontract clauses, the hostility to competing unions, the use of the employers as a means of establishing and maintaining the system of rules and practices in the industry. Hence also the elaborate machinery for the resolution of jurisdictional disputes.

The second source of conflict between unions and contractors is the substantive issue of wages, hours, and other cost items, as well as the work rules. It is these matters that, when resolved, make up the bulk of the union agreement. In a general sense they are of the same nature in the industrial and construction sectors, but there are differences. In the case of the industrial sector, the agreement may be thought of as the laws of the plant or company; whereas in construction the union will attempt to make them the laws of a region and applicable to all employers in the trade. And the loose relationship between contractor and employees and the close relationship between union and employees encourages an inflexible attitude on the part of organized labour. Again the work rules become a crucial line of defence against the insecurity peculiar to the industry. Employers' attempts to alter these standards and work rules to their advantage are understandably resisted strongly by the unions. The evidence concerning the controversy over the introduction of piece rates is a good illustration. If a construction union should abandon its traditional and successful opposition to piece rates it could undermine the whole structure of its relationship, not only with the employer to whom it made the concession, but with all employers with whom it deals. And it is interesting that the transcripts seem to indicate that efforts to introduce piece rates were accompanied by questionable or corrupt practice and threats of violence as well as actual violence.

Such experiences raise questions about the capacity of collective bargaining to perform its problem-solving role in certain sectors of the construction industry. If it is to perform this role properly some changes in the rules of the game seem to be needed. The process of change in this respect, which was started when various jurisdictions, including Ontario, began experimenting with special legislation applicable to construction, has not run its course.

X. PROBLEMS OF ACCOMMODATION

The problems of accommodation that exist in construction must be considered in the context of the analysis of the industry outlined above and in the light of the nature of the conflict areas themselves. It is a theme of this report that the most important element in the process of accommodation is time. Put in simple terms, the discontinuity factor means that resolution of controversial issues must be quick and decisive if it is to be effective in controlling conflict between and among the parties involved. There is little value in a union achieving the right to represent the employees of a contractor if the contractor terminates his employer status before the union can function as bargaining agent. Nor does it help a contractor to have a jurisdiction problem settled in his favour after all or most of the disputed work has been completed by another contractor. Indeed it can be shown that speed of decision is vital in all of the dispute issues that are present in the construction industry. A comparison between industrial relations in construction and those in a more continuous and localized enterprise will help to emphasize the need for quick solutions to potential conflict in construction.

A union attempting to unionize the employees of a stationary industry with continuity of employment may encounter delays which may be frustrating, but are not usually fatal to its achieving its goal of representation rights and recognition by the employer. There is no operational deadline which, if passed, means total failure. In construction there is such a deadline because the relationship between the employer and his employees is a dissolving one.

Even after the union is recognized or certified as holding the negotiation rights for the employees of a given employer, there is much greater urgency for the construction union to reach agreement than in most other situations. A union's right to bargain in construction is a wasting asset if it is confined to a given employer on a particular site. Again it is the approaching termination of the functions of a particular contractor or subcontractor on

that site that could dissolve a union's bargaining position. Unless some alternative system of recognition is available which *effectively* reduces or eliminates both the time deadline and the site limitations construction unions, unlike their industrial counterparts, will operate under the menace of automatic collapse. Time is always on the side of the construction employer *who wishes to avoid the burdens of a collective agreement*. In other words, site bargaining units in construction are unsatisfactory if continuity of a relationship between a union and an employer is to be maintained. The introduction of geographic certification has alleviated this problem to a very considerable degree.

It would be wrong to assume that urgency in collective bargaining resides only with the union. An employer benefits by delays only if he escapes the burden of the terms of an agreement altogether and at the same time *avoids certain possible consequences of operating without a collective agreement*. Where the union is strong because of members' support, or because of the solidarity it may share with other construction unions, the reluctant contractor may face picket lines or slowdowns, or he may be deprived of a labour supply altogether, or be limited to recruiting from the least efficient workmen. Subcontractors, like unions, operate within the time framework of the construction project. They face overhead losses if their equipment is idle; they may be subject to commercial penalty provisions; and in a period of high interest rates they are under particularly strong pressure to complete their contracts on time.

Under such compulsions the bargaining power of the individual employer may be weak and he may be willing to accept a collective agreement whose terms are more onerous to him than he would be prepared to accept if he were not under the pressures he feels in isolation. Of course it may be noted that in a building boom the contractor may be able to pay a relatively high price for industrial peace because of the high level of demand for construction and because the volume of demand is not particularly responsive to price increases.

Construction employers generally prefer to negotiate through employer associations since this provides some protection against whipsawing by the unions. If the individual contractors do not break ranks and negotiate outside the associational bargaining, and if they are prepared to stand together in a strike situation, there will be generated a real countervailing employer bargaining power, and the union will be denied access to those tactical weapons based on negotiations with individual employers. Associational bargaining is the employer's answer to both the union's divisionary

tactics and the employer's temptation to accept the short-run advantages of individual bargaining.

A major difficulty with associational bargaining is the clash of interests among the contractor members of the association. Since in Ontario membership in an employers' association is voluntary, and since unions may seek to take advantage of dealing directly with individual contractors, employer associations have a tendency to weakness or disintegration. Testimony before the Commission indicates that this problem of the inherent weakness of employer associations was a major factor in the request by employers in the construction industry for the introduction into the Ontario Labour Relations Act of the device of accreditation. In this request the employers were successful and the act was altered accordingly. This procedure will be discussed more thoroughly later when the various legislature experiments designed to solve construction labour relations problems are reviewed. For the present it may be noted that the procedure alters the effect of certification in an important respect. Whereas certification in the ordinary sense extends to a union the sole right to represent the employees of a particular employer and to negotiate with *him* a collective agreement, under accreditation the union still possess the sole right to represent the employees of the certified employer, but only through the agency of the accredited employers' association, whether or not the employer in question is a member of the association. The principal purpose of this legislation is to strengthen and stabilize the employer associations by removing the obligation, and indeed the right, of an individual employer to negotiate with the union recognized or certified as the bargaining agent for his employees. In practical terms this is designed to prevent an employer from 'going it alone' or making special deals with a union to the disadvantage of the unionized employers as a group.

Perhaps the most important feature of associational bargaining, whether supported by accreditation or not, is that it broadens the base of collective bargaining and should help to solve the problem posed by three distinguishing features of construction; viz, the construction site, discontinuity, and mobility of the production agents. If the unionized employers of a trade are under common agreement with a union covering a geographic area, the situation becomes a little more like that of an employer in other industries. There is a legally unified employer side dealing with a single union. The contractors and subcontractors move their operations from site to site in response to the demand for their construction services and in accordance with the contracts they are able to bid successfully. The tradesmen move

from employer to employer under a common collective agreement negotiated by the agency of all contractors of the trade. The agreements take on more of the flavour of industrial 'legislation,' although privately negotiated and amended by the unions and the employer associations.

It should also be noted that such arrangements in the construction industry are consistent with the point already made that there can be little of the traditional personnel policy associated with industries with more stable employment relationships. But it is also worth noting that if associational bargaining provides greater stability in employment relationships as between a group of trade contractors and their employees, it is conceivable that a group or centralized trade personnel policy might develop and take on more of the character usually associated with that term. The employers association might provide the permanency which could partly overcome the problem of discontinuity which now caters to instability and conflict.

So far in this section on associational bargaining we have been concerned with a single union, or a council of locals or units of the same union. In other words the analysis has been limited to single-trade bargaining, and the emphasis has been placed on a union negotiating with an association of employers employing members of the same trade. The general conclusion has emerged that if stable employer associations, protected from the malaise of disintegration under the pressures of competition and the built-in insecurity of the construction industry contracting system, can be established, then some of the present insecurities faced by contractors in the negotiation process can be overcome, resulting in more stable industrial relations. It is now necessary to look beyond this single union bargaining to consider whether a system which promoted multi-trade bargaining is viable, and whether it would likewise produce advantages in industrial relations. It is worth noting at this point that in Quebec public policy has accepted multi-trade bargaining as a goal and has imposed it by law. Let us consider multi-trade bargaining aside from compulsion.

There are undoubtedly certain advantages to be derived from multi-trade bargaining in the construction industry; and there are disadvantages. Under this procedure all of the unions in the construction industry would bargain with an association which included both general and trade contractors. In other words a considerable evolution of the structure of the institutions involved in the industry would be necessary before effective multi-trade bargaining could take place. The only other way of achieving this objective would be via the Quebec route of legal compulsion.

Multi-trade bargaining would eliminate whipsawing between unions since all unions would be covered by the same agreement. This would

make bargaining more difficult because the union side would be saddled with the problem of winning acceptances among the unions involved for the compromises of the multifarious interests necessary to reach agreement with the employers. Can the construction industry unions be expected to surrender the degree of sovereignty necessary to make it possible for a central bargaining authority to function effectively? Will they be willing to accept the results of such bargaining, or will they be inclined to reassert their union's sovereignty and break out of the system? The difficulties on the employer side arising from the individual contractor's right to remain aloof from an association, or to drop his membership, could easily be duplicated on the union side.

There is also the geographic scope of multi-trade bargaining as indeed there is with single-trade negotiations. But the problem is simpler in the case of a single union than in the multi-trade situation. While the evidence before the Royal Commission reveals situations of conflict over territorial jurisdictions between locals of the same union, these locals generally accept the authority of the international and keep within their own area. But when all the unions are involved, and assuming that there has not been resort to the Quebec legislated solution, there could be as many conflicts as there are independent unions. For example, one union might prefer area bargaining and others might prefer different areas or province-wide bargaining.

Thus, while there are possible advantages to multi-trade bargaining there are problems. The institutional structure is not yet appropriate on either side, nor is the attitude of the parties. Considerable evolution would be necessary both in structure and attitude if any form of voluntary multi-trade system is to function effectively. The issue will be raised again in conjunction with the examination of policy experiments in the various jurisdictions. Meanwhile it is important to emphasize that while bargaining between a union and an association has become fairly common in Ontario, multi-trade bargaining is rare and largely confined to out of the way major projects, which are not under investigation.

One of the problems that plagues the construction industry is that concerning the task jurisdiction of the various unions. Each union includes in its constitution a description of the materials, tasks, and sectors which taken together defines its jurisdiction. There is a major problem of accommodation. In the context of starts and termination of construction activities at various sites it is a matter of great importance to the workers and their unions to know what job territory 'belongs' to them. When more than one union claims the sole right to perform certain tasks on a construc-

tion site a serious clash of interest can occur. There is need for some mechanism to settle such issues in a manner that will be respected by the contesting unions and by the employers with whom they have agreements. It is also important that settlement be quick because of the ever approaching termination date of the operation. In the absence of a due process procedure the temptation to resort to industrial force by means of picketing is strong and since time is always running out for the contesting union, and particularly for the union claiming that an improper allocation of work has been made, there is a probability of escalation beyond informational picketing to actual physical force. But aside from this possibility, such disputes, unless referred to some accepted system of adjudication, can and sometimes do lead to shut-downs because of the strongly held view that it is wrong to cross picket lines.

Task assignment disputes always involve at least two unions, and sometimes more than two. They also usually involve the interest of employers respectively identified with the conflicting unions. Thus, a conflict between the lathers and the carpenters is not limited to these workmen and their unions, but includes in addition the interested subcontractors as well. A decision in favour of the carpenters will mean that the lathers will be denied access to the work, but also it means that a subcontractor who specializes in the lathing function will likewise lose out.

The problem has engaged the attention of the Construction Trades Department of the AFL-CIO for many years and, in collaboration with the various construction industry contractors' association, they have experimented with considerable success with joint machinery whose function is to decide these issues. In other words the employers and unions in the industry have designed their own machinery to settle jurisdictional disputes.

Further discussion of this issue is delayed until the legal provisions for dealing with jurisdictional disputes is under review. Meanwhile it is necessary to draw attention to a form of jurisdictional disputes which presents, at least in principle, perhaps the most difficult problem in this area. The reference is to the conflict between unions, one of which is not part of the Construction Trades Department of the AFL-CIO. The Christian Labour Association of Canada is a good illustration. This union, which has bargaining rights for a relatively small number of employees in Ontario construction, is not part of the internal AFL-CIO system. Since it attempts to organize on an industrial rather than a craft basis it is in competition with a number of unions both with regard to the right to represent workmen, and with regard to task jurisdiction. It has no access to

the joint machinery for the settlement of jurisdictional disputes in construction, and in fact is looked upon as an alien by the international unions.

The CLAC was introduced here as an illustration that draws attention to a broader and perhaps central issue in the construction industry. Can public policy acquiesce in the principle that there is no place on the construction sites in Ontario for unions other than those which are part of the AFL-CIO Construction Trades Department, and those allied with them such as the Teamsters who are not normally engaged in job competition with them. There is a real difficulty in reconciling the principle of freedom of choice of unions, a cornerstone of public policy and law, with some of the results of practices operating in Ontario, and indeed elsewhere.

Construction unions seek to establish bargaining relationships with employers either through voluntary recognition or by certification. They seek to protect themselves from non-union competition, or from competition from employees represented by another union, by the closed shop and subcontract clauses. They introduce the hiring hall device as a means of controlling access to the construction sites. They try to include in collective agreements the definition of their own work jurisdiction. All of these strategies can be defended as efforts to resolve some of the human and institutional problems which flow from the way in which the construction industry operates. Yet the over-all effect of success in these endeavours may be to thwart the intention of public policy in some other respect.

Thus, as the evidence submitted indicates, the closed shop and subcontract clauses may prevent a unionized employer from successful bidding for contracts if he has been certified by the 'wrong' union. In the circumstances the certification has been defeated by collective bargaining.

This section has been entitled 'Problems of Accommodation.' With regard to most conflict areas, some form of accommodation is possible. However, in the case of conflict between the international unions in construction and the independents there may be no basis of accommodation at all without a serious alteration in the procedures now practised by the internationals to solve real problems. Thus, the attempts of internationals to establish continuing relationships with employers or employer associations on a geographic basis is a legitimate way of solving the problem of discontinuity. Similarly, the hiring hall is a means for orderly and systematic assignment of unionized employees to unionized job sites. Also, the subcontract clause is a logical device to prevent employers from avoiding the obligations undertaken in a collective agreement by transferring the employer role to others not under agreement with the union.

But it must be recognized that, pushed to the logical limit, the extension

of these practices would give total jurisdiction to the international construction unions, regardless of what other union was able to secure some certification. Indeed, the impression is gained from the briefs and testimony before us that the limited success of the independents in Ontario is tolerated by the internationals in fringe areas in much the same way as is non-union construction in the home-building sector. It is not surprising that the independents have had such limited success.

A more serious problem involving another aspect of the jurisdictional issue may be emerging. Within the construction trade group there is one union which may be classed as semi-industrial. This is the labourers union. Local 183 of this union supports the existing power of the Labour Relations Board to certify a union for a bargaining unit covering a group of employees who exercise a combination of technical skills or are required to perform the skills in whole or in part of more than one craft as part of a whole crew or team, the other members of which are also required to perform in similar fashion. Local 183 cites the technological changes and innovations in the construction industry over the last decade as justifying this somewhat altered view of the concept of the unit appropriate for collective bargaining. Other unions have suggested that this authority of the Board should be repealed.

In effect, this power of the Board opens the door to a form of industrial-union competition for the established craft unions. The extent to which this authority might be used depends upon the way the Board interprets the Act, the extent of technological change, and the vigour displayed by unions that are prepared to represent multi-skilled groups. There could be a major conflict in the construction industry over this issue.

Whether or not this happens, it seems clear that technological and other changes in the industry are having, and are likely to continue to have, important consequences for industrial relations in construction. The union structure, the jurisdictional territories established, and the independent roles of the unions in collective bargaining are confronted with a problem of adaptation to accelerating change. Yet there is a static quality about construction unionism which makes such adaptation difficult. Technology leads to an erosion of work practices and a decline in demand for the particular skills upon which a specific union may be built. Attempts to adjust lead to conflict over jurisdiction, the entry of alien unions, and tensions within the union establishment. There is a need for mechanisms which will assist in the transformation which must be made.

This is easy to say, and has validity, but poses great difficulties. It is doubtful whether the jurisdictional dispute mechanisms developed in the

industry or established in the Labour Relations Act can meet fully the emerging challenge of change.

There is a particularly difficult problem of accommodation associated with technological change or industrial conversion. Prior to the introduction of collective agreements, and particularly to the legal prohibition of the work-stoppage during the life of a collective agreement, controversies over the impact of change and conditions of employment could be resolved by negotiation and strikes or lockouts without any violation of a labour relations law. At present this is not so because the law in practically all Canadian jurisdictions, including Ontario, requires that there shall be no strike or lockout during the life of the agreement, and the strike right is replaced by a right to arbitration. But arbitration is limited to the agreement as it exists, and unless specific provision has been made to cover the consequences of change the arbitrator may find that he has no jurisdiction to settle such a dispute during the life of an agreement. Arbitrators in Canada have, with few exceptions, accepted the residual rights interpretation of the collective agreement which takes a narrower rather than a broader view of the coverage of the agreement and of the arbitrators' jurisdiction.

Employers' organizations have generally welcomed this interpretation of the collective agreement and have resisted efforts to change the law so that it can give some protection and relief to employees and their unions who, while protected by a collective agreement, rarely have been able to induce employers to include in agreements clauses which provide a real protection against technological change if such change takes place. To the employer the most important goals he seeks through the collective agreement are industrial peace and the certainty of his own and his employees' rights and obligations. If contracts can be opened up during their term because he wishes to introduce change he believes he loses the real protection which should flow from the agreement.

In this problem area the goals of the employer and of employees are in sharp conflict. Each is seeking security; the employer to establish a *status quo* of rights which leaves him free to manage with the certainty that his obligations will not change while the agreement lasts; the employee by having a collective agreement that protects his job and his skills from known as well as unforeseen threats as time passes. Each side is seeking security by imposing a burden of insecurity on the other side.

All of this is true for most industry; it is not confined to construction. Yet in construction it may be a particularly severe problem because of the nature of the industry itself. The construction unions have tried to protect

those they represent by jurisdictional definitions, by elaborate and often inflexible work rules which they impose on their employers through collective agreements, and through the system of territorial bargaining and subcontract clauses which in effect extend the agreement and work rules to formerly non-unionized employees and their employers.

As with some other labour law provisions, the applicability of these clauses to the construction industry is questionable. The discontinuity element and the fact that time is of the essence mean that the delays provided would likely prevent settlement in time to be of much use to the parties. Moreover, technological change in the construction industry frequently leads to jurisdictional disputes among the unions and their respective subcontractor groups. In industrial union situations, technological change and the cost advantages to be gained therefrom may encourage management to favour one classification of workers against another, but the problem of accommodation on the employee side is likely to be contained within the membership of one union. In construction such changes occur in the context of independent crafts and independent contractors or contractor groups. Accommodation must take place in the context of divided authorities on both sides of the bargaining table. Where one union and its employer-contractors may oppose a change because it threatens the job security of the tradesmen represented by that union and the contract opportunities of their employers, another union and its employers may favour the change because it promises to increase job security for another group of workmen and the business opportunities of their employers. In these circumstances a technological change issue will become a jurisdictional issue and the earlier analysis of jurisdictional conflict will apply.

This problem of change and its impact on industrial relations is only one illustration of the disrupting effects that may flow from influences outside the relationships of the employer and employee and union parties. There are others which put strains on the relationships and on the conventional means of accommodation, and the institutions which have been developed by practice under the umbrella of the legal framework. Inflation is particularly serious and is now plaguing labour relations in all industry. As with the technological change issue, the problem originates outside the relationship of the parties, and like technological change it also places the process of collective bargaining under severe strain. Indeed it is doubtful if this issue can be resolved by collective bargaining, although this is the thrust of the current demands for re-opening of contracts and the inclusion of indexing provisions. If it cannot be met by bargaining, and if it is not resolved by public authority, inflation may render collective bargaining almost un-

workable in the construction industry as in industry generally. Contracts presuppose a relatively stable unit of account.

XI. LEGISLATIVE EXPERIMENTS IN CONSTRUCTION: ONTARIO AND OTHER PROVINCES

Principles of public policy

Several provinces have introduced special legislative provisions applicable to construction industry industrial relations. Generally these do not introduce any new principle although, as will be seen, there has been some modification in the rights which are basic to the general labour relations laws in Canada. A brief review of the principles upon which Canadian labour relations legislation rests follows.

The keynote of public policy is freedom of association. This means, on the employee side, the right to join or not to join a union, to organize and work for the advancement of unions, to accept office in unions, and to engage in all legitimate union activities. On the employer side is the same freedom to form and participate in the activities of employer associations.

A second major principle is the right of a union to represent a unit of employees in collective bargaining, and the associated obligation on employers to recognize this right in a union which can establish certain levels of support among the members of the unit it proposes to represent.

Closely associated with this principle is the right to bargain collectively with the object of influencing or determining the rules of the work place which shall govern the relationships and terms and conditions of work.

A fourth principle concerns the recognition of due process as the governing influence in the interpretation of the agreements in the period of application.

Finally and perhaps the basic foundation of policy is the acceptance of the idea that decision-making in union-management relations should be, as far as possible, left to the parties of interest and not made for them by some agency of government.

Main features and agencies of public policy

The principal elements in public policy established in law to protect freedom of association are the unfair labour practice clauses that list a long series of prohibited actions which, if allowed, could be used to discourage employees from exercising their right regarding union membership. Employers are forbidden to use threats, promises, discrimination, intimidation, discipline, or discharge to discourage union activity. Persons acting

on behalf of unions are similarly restrained from using improper methods to recruit membership. And unions and employees are forbidden to discourage employers from forming their own associations.

The right of unions to represent employees in labour relations is supported by legislation which legitimizes voluntary recognition, or by certification of unions which establishes a procedure leading to a certificate of representation issued by a labour relations board to a union which can show proof of some statutory minimum support, either through membership or by a vote of the employees in the unit the union seeks to represent.

Compulsory collective bargaining is supported in the law by the rule that a union which has succeeded in achieving a voluntary bargaining relationship with an employer or employer's association has a continuing right until and unless the appropriate labour relations board terminates these rights. Compulsory collective bargaining is also supported by certification by a labour relations board on application by a union which is able to demonstrate the legally required degree and kind of support from the unit appropriate for collective bargaining.

Finally, due process with regard to the resolution of conflicts arising after a collective agreement has come into force, and concerning its meaning or application, is usually supported by a legal requirement of arbitration or some other procedure without a resort to strike or lockout during a collective agreement.

These are the major provisions in the law to implement a policy of collective bargaining based on principles which are derived from western notions of freedom. In practice, on any given issue there is little uniformity across the jurisdictions in Canada. There are some differences in the definition of unfair labour practices; there are different guidelines for the determination of units appropriate for collective bargaining; the restraints on the use of the strike and lockout are not identical from province to province; the statutory provisions for dispute settlement during the life of an agreement indicate experiment in different directions, and so on. Yet in broad conceptual terms in the general situation there is much in common, and it is fair to say that there is an identifiable public policy.

Special provisions in the construction industry

In at least two major sectors of employment there has been much experimentation in public policy in recent years. These are in public employment industrial relations and in the construction industry. In both of these cases the explanation of the tendency to establish different instruments and procedure of public policy is a reflection of important special features of

employment in the respective areas, and hence an apparent need for different rules and procedures for the resolution of industrial relations policies. We are concerned only with the problem in construction. Attention is now turned to some of the important experiments in public policy in construction industry labour relations. It is well to keep in mind the special characteristics of the construction industry which lie at the root of much of the turbulence in construction labour relations, and which render the conventional provisions of labour relations legislation unsatisfactory in construction. Construction is a transient industry; it is always completing its operations on a given site and moving on; the general contractors, the specialty subcontractors, and the workmen are occupied at a given site for varying periods of time and then move on. Employer-employee relationships are always coming to an end and being established with and among different parties. Instability, uncertainty, and insecurity encourage defensive activities and contribute to the problems of illegality under review by the Royal Commission. In this context speed of resolution of conflicts becomes crucially important.

Much of the special legislation is directed to creating new bases of stability by encouraging more permanent relationships between unions and management, by facilitating negotiations, by speedy resolution of jurisdictional conflict, and by encouraging rapid adjudication in grievance cases and interpretation issues during the life of a collective agreement.

The bargaining unit problem

Ontario and some other jurisdictions have freed themselves from the problems posed by site certifications. Section 108 (1) of the Ontario Labour Relations Act states that '... the Board shall determine the unit of employees ... by reference to a geographic area and it shall not confine the unit to a particular project.' Similarly the Nova Scotia Trade Union Act, Section 92 (2), provides that the Construction Industry Panel of the Labour Relations Board '... shall determine the unit of employees that is appropriate for collective bargaining by reference to a geographic area.' In New Brunswick Section 41 (2) of the Industrial Relations Act now provides for geographic certification as a general rule but, unlike Ontario and Nova Scotia, it does leave discretion to the Board to certify on a project basis if it is satisfied that the circumstances warrant a unit so confined. Some other provinces have made no special provision to eliminate site certifications.

The effect of eliminating site certifications and restricting the Board to area or geographic certifications is to encourage stability in employer-union relations. Strictly speaking, in the case of site certification the

employer's recognition of the union would terminate as soon as the employer had completed his contract on the site for which the union held the certification. The unit appropriate for collective bargaining would either have collapsed or have dwindled and moved on. The union's right to recognition would have come to an end. However, while no statistical information is available, there is no doubt that in these circumstances voluntary continuation of recognition by employers was widely practised in Ontario before the province abandoned site certification, and continues to be practised in those jurisdictions which have not abolished site certification. Recognition is habit-forming.

It should also be noted that even when site certification was possible, in some jurisdictions at least, it was permissible for a Board to certify on a geographic basis. The change to area or geographic certifications in Ontario was therefore not a revolutionary one since it continued a practice of area certifications but dropped the option of site certifications in the construction industry. The net effect on stabilizing relationships between contractors and unions is, nevertheless, important.

The legal requirements of area certification and the elimination of site certifications broadens the base of recognition but it does not entirely solve the problem of the 'disappearing bargaining unit.' It is possible that a contractor who, either through certification or by voluntary recognition, is in an established relationship with a union may complete all his work in the designated area and find himself without employees. His unit of employees no longer exists. The question arises concerning the status of an agreement to renew or amend such a collective agreement. The Ontario law has dealt with this problem by providing in section 110 that such an agreement to renew or amend 'shall be deemed to be a collective agreement notwithstanding that there were no employees in the bargaining unit ... affected at the time the agreement was entered into.' In other words it would appear that once an area bargaining unit is established and operative, either by certification or by voluntary recognition, the employer and union can conduct valid negotiations for the continuation, with or without amendments, of their agreement even though there are no employees left in the bargaining unit.

This is an adjustment in the Labour Relations Act to meet realistically one of the major problems of construction instability. It tends to make the relationship between the employer and the union continuous so that the basic structure of the terms and conditions of work and the work rules remain and are available for the protection of employees if and when the contractor recommences operations.

A council of trade unions may apply (section 9) to be certified to represent a unit of employees appropriate for collective bargaining, provided they have each vested appropriate authority in the council to enable it to discharge the responsibilities of a bargaining agent. This could have the effect of further enlarging the bargaining unit, and increasing employer-union stability.

It is also possible for a union or council of unions to gain bargaining rights for a unit of employees of more than one employer either by voluntary recognition or by certification. This would provide for negotiation by either a union or a council of unions and a group of employers. And in Ontario, while bargaining between a union and a single contractor is common, there is a considerable amount of collective bargaining between a union on the one hand and an association of employers on the other. If this practice spreads, the broadening of the bargaining unit should have the effect of stabilizing union-employer relations even further.

It must be noted that the initiative in achieving certification involving the employees of more than one employer rests with the union. Even if an association of employers wished to negotiate as a group, a union could block the move by insisting on bargaining according to their individual employer certifications. In practice unions have sometimes favoured individual bargaining and at others bargaining with employer groups. There are tactical advantages in both of these approaches and a union is likely to elect the one most advantageous to its own interest.

Accreditation of employer associations

Accreditation of construction employer associations has been introduced into the Ontario system at the request of employers in the industry. Put in the simplest terms, accreditation grants to an employers' organization the sole right to represent in collective bargaining all the employers in a sector of the industry and in a geographic area whose employees are represented in collective bargaining by a particular union.

Accreditation differs from voluntary associational bargaining in at least three important ways. First, the initiative is transferred to the employers because only they can apply for accreditation. Secondly, the union is compelled by law to accept associational bargaining if the Labour Relations Board grants accreditation to the employer association. Thirdly, the association has the bargaining rights not only for those employers who are members of the association, but also for non-member employers in the sector and the geographic area whose employees are represented by the union. In other words, the only employers not represented by the associa-

tion are really the non-unionized employers or those under certification by another union.

The law in a number of sections makes it abundantly clear that accreditation is intended to replace the individual employer by the accredited association in all aspects of collective bargaining. The purpose is to strengthen the employers' association by removing the opportunities available in voluntary associational bargaining to the union to engage in shipsaving tactics and deals with individual employers. Section 119(1) prohibits individual bargaining. Section 119(2) prohibits unions from entering into either oral or written agreements to supply workmen to an accredited employer during a strike or lockout. However, in step backward from these provisions in support of accredited employer solidarity section 119(3) protects the right of an accredited employer to continue or attempt to continue his operations during a strike or lockout.

In other words, the law permits an employer whose bargaining agent, the accredited association, is involved in a strike or has called a lockout, to undermine employer solidarity and undo much of the good done by the original accreditation. It would not be difficult for such an employer to overcome any slight disadvantage he might suffer because he is barred from asking the union to supply men. He is not prevented from alternative forms of recruitment. He can advertise. He can recruit by telephone through his foremen and so on.

There is some logic in support of section 119(3). It gives the appearance of placing accreditation on the same basis as certification of a union. In case of a strike there is nothing in this law to prohibit a workman from taking employment with another employer while the strike is on. Indeed there is nothing in the law to prevent a workman from reporting to work for his own employer against whom the strike has been called by his union. It would seem to be logical that an employer represented by an accredited association should have the same privilege of continuing his operation as section 119(3) guarantees. But the consistency is not as real as it seems. The law does not guarantee an employee's right to work during a strike, it is silent on this issue; and it is quite possible that an employee who continued to work would be violating the constitution of his union and would therefore be subject to union discipline. Corresponding disciplinary action against an employer who continued to operate while the accredited association is involved in a strike or lockout appears to be ruled out by this provision in the legislation. Therefore, both for reasons implicit in the purpose of accreditation and of consistency, section 119(3) is difficult to defend.

The limitations of the jurisdiction of an accredited employers' associa-

tion are important. Two classifications of employers remain outside the authority of the accredited association. These are the non-unionized employers and those whose employees are represented by another union. This limitation is important because it means that the accreditation does not establish a complete system in a sector in an area unless the union upon whose recognition the accreditation is based succeeds in unionizing all employers in the sector in the area. However, accreditation does cover any employer who subsequent to the signing of the agreement between the union and accredited association of employers is certified by the union, or voluntarily recognizes the union. In other words it is possible for this bargaining unit to grow, but its growth depends on the organizing activities of the union.

Arbitration during the life of an agreement

Collective agreements in Ontario are required by law to include provisions for the resolution of complaints regarding the application or administration of agreements, and a statutory arbitration clause is presumed to be included in agreements which themselves do not contain such provision. On the whole this provision has worked reasonably well in industry generally, and it has been useful in construction. However, there have been complaints concerning certain aspects of grievance arbitration. These involve questions of the time involved, the lack of qualified arbitrators, and the expenses.

These arbitration provisions in the Ontario law are applicable to all union agreements, and there is no special provision for the construction industry. This is not so in all jurisdictions. The system in Quebec is quite different from that in Ontario, but so is the entire structure of industrial relations in the industry which is governed by a special piece of legislation. Perhaps of greater interest to Ontario is the Nova Scotia experiment. Since the law of labour relations in that province is in most respects similar to the Ontario law, and since Nova Scotia has adopted for the construction industry several features of the Ontario law, and particularly the provision regarding accreditation of employer associations as well as the device of a Construction Industry Panel of the Labour Relations Board, the Nova Scotia deviation from Ontario regarding grievance arbitration may have relevance in any discussion about reform in industrial relations policy and procedure for the construction industry in Ontario.

Nova Scotia has adopted (for agreements other than in construction) the Ontario arrangement of a statutory arbitration clause which is considered to be in any collective agreement where the parties to the agreement have

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failed to include an arbitration clause of their own. But the Nova Scotia general provision differs from the Ontario law in one important respect: it makes no mention of a tripartite board of arbitration, whereas the Ontario statutory clause is built on the three-member concept. Section 40(2) of the Nova Scotia Trade Union Act reads in part '... either of the parties may, after exhausting any grievance procedure established by this agreement notify the other party in writing of its desire to submit the difference or allegation to arbitration. If the parties fail to agree upon an arbitrator, the appointment shall be made by the Minister of Labour ... upon the request of either party. The arbitrator shall hear and determine the difference or allegation and shall issue a decision ...'

This Nova Scotia clause clearly displays a bias toward the single arbitrator. It is also noteworthy that it makes no mention of time limits. The corresponding clause in the Ontario Act, however, has a bias towards the three-member board of arbitration; and it also has a system of statutory time limits. Section 37 of the Ontario Labour Relations Act reads in part as follows:

(1) Every collective agreement shall provide for the final and binding settlement by arbitration, without stoppage of work, of all differences between the parties arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable. (2) If a collective agreement does not contain such a provision as is mentioned in subsection 1, it shall be deemed to contain the following provision: Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, including any question as to whether a matter is arbitrable, or where an allegation is made that this agreement has been violated, either of the parties may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days inform the other party of the name of its appointee to the arbitration board. The two appointees so selected shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator, or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister of Labour for Ontario upon the request of either party. The arbitration board shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties

and upon any employee or employer affected by it. The decision of a majority is the decision of the arbitration board, but if there is no majority the decision of the chairman governs. (3) If, in the opinion of the Board, any part of the arbitration provision, including the method of appointment of the arbitrator or arbitration board, is inadequate, or if the provision set out in subsection 2 is alleged by either party to be unsuitable, the Board may, on the request of either party, modify the provision so long as it conforms with subsection 1, but, until so modified, the arbitration provision in the collective agreement or in subsection 2, as the case may be, applies.

It will be noted that the model provided in this Ontario statute is a tri-partite board. It is also to be observed that two five-day limits are provided at respective stages in the process. This clause applies to construction as to other industries in Ontario.

Nova Scotia has in its construction industry arbitration clause departed from both the Ontario provision and the general provision in the Nova Scotia Trade Union Act, but it has retained certain features of both. Section 103 of the Trade Union Act reads in part as follows:

(1) Notwithstanding Sections 39 and 40 and any provision in a collective agreement, where an employer or an employers' organization enters a collective agreement, any dispute or difference between the parties to the collective agreement, including the persons bound by the collective agreement, relating to or involving (a) the interpretation, meaning, application or administration of the collective agreement or any provision of the collective agreement; (b) a violation or an allegation of a violation of the collective agreement; (c) working conditions; or (d) a question whether a matter is arbitrable, shall be submitted for final settlement to arbitration in accordance with this Section in substitution for any arbitration or arbitration procedure provided for in the collective agreement. (2) Where a dispute or difference arises between the parties to a collective agreement to which this Section applies during the period from the date of its termination to the date the requirements of Section 102 have been met, this Section applies to the settlement of the dispute or difference. (3) When a dispute or difference arises which the parties are unable to resolve, the parties to the dispute or difference shall agree by midnight of the day on which the dispute or difference arises upon the appointment of a single arbitrator to arbitrate the dispute or difference. (4) When one of the parties advises the Minister that a dispute or difference has arisen and that the parties to the dispute or difference have failed to comply with subsection (3), the Minister may appoint an arbitrator. (5) Notwithstand-

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ing any provision of this Section, the Minister may, with the written consent of the employer and the trade union or unions representing the employees who are represented by a trade union, appoint a person to be the arbitrator for the purpose of this Section for the term of the collective agreement or for the term mentioned in the appointment and the provisions of subsections (3) and (4) shall not apply. (6) The arbitrator appointed pursuant to this Section has the powers conferred by Section 41 and, without restricting his power and authority, his decision shall be an order and may require (a) compliance with the collective agreement in the manner stipulated; (b) reinstatement of an employee in the case of a dismissal or suspension in lieu of dismissal with or without compensation. (7) The decision of the arbitrator shall be rendered within forty-eight hours of the time of appointment unless an extension is agreed upon by the parties. (8) The parties to the dispute or difference shall be bound by the decision of the arbitrator from the time the decision is rendered and shall abide by and carry out any requirement contained in the decision. (9) An arbitrator appointed pursuant to the provisions of this Section who renders a decision in respect of a dispute or difference shall make a report and shall transmit the report to the Minister and to the parties. (10) One third of the fees of, and the expenses incurred by an arbitrator appointed under the provisions of this Section shall be paid by each of the Minister and the employer or the employers' organization and trade union that are parties to the collective agreement in accordance with a scale of fees and expenses approved by the Minister.

The first important feature of the Nova Scotia provision is that it is mandatory in the construction industry. It sets aside any provision in a collective agreement for arbitration and imposes the statutory clause. Secondly it imposes a single arbitrator and leaves no option to the parties to design their own system. Thirdly it establishes very short time limits for the appointment of an arbitrator, and for the arbitrator to hear the parties and render his decision. Fourthly it encourages the use of permanent umpires by authorizing the minister to appoint one if the parties agree. Clearly Nova Scotia is trying to encourage something close to instant arbitration in the construction industry.

There is merit in this approach although it is rather severe. Yet it should be recognized that arbitration loses much of its value if it does in fact function as its critics from time to time claim.

A study under the title 'Justice Delayed' sponsored by the Labour Council of Metropolitan Toronto and concerning all grievance arbitration reports filed with the Arbitration Commission in the period from 1 Sep-

tember 1971 to 1 September 1973 reveals that the median time from the date of the grievance to the date of the final award was approximately six months for cases handled by a single arbitrator and eight months by a three-member board. The authors make the following significant statement, 'It may be that the results of a tripartite review are more acceptable to the parties since each side can be assured that its position has been pressed before the arbitrator through its nominee. However, the chairman of the Tribunal is chosen for his perceived impartiality and neither side seriously expects him to be influenced by the pleadings of its spokesmen. The basis of support for the tripartite system may indeed be illusory. It may very well be that a speedy, just remedy is one of the desired products of any judicial or quasi-judicial system and certainly of the entire arbitration process itself.'

If arbitration, as it now functions, is viewed as unsatisfactory in industry in general it must be all the more unsatisfactory in construction where, for reasons already stated, the time element is so crucial. It may not be necessary to introduce legislation as severe and inflexible as has Nova Scotia. Nevertheless, the objectives of that law are on the whole sound. The basic goal is speed. This is to be achieved in three ways. One is to establish tight time limits within the process, another is to require the single arbitrator, and the third is to encourage an established umpire so that an arbitrator is always available.

It is possible that it may be very difficult to live within the time limits set in Nova Scotia, and perhaps more time might be permitted. Yet it is equally important to remember that the longer settlement is delayed, the less likely will there be confidence in the system, and the more probable will be resort to pressure tactics, slow downs, spontaneous wildcat strikes and even illegal work stoppages.

Some representatives of labour and management are distrustful of the single arbitrator. No evidence indicating substantial justification for this distrust has come to light. Yet, regardless of merit, the attitude of the parties is important and should be respected. There is a tradition of tripartite labour relations devices in Canada which goes back about three-quarters of a century to the conciliation boards under the Industrial Disputes Investigation Act whose principles and procedures are now incorporated in the Canada Labour Code and corresponding labour relations acts of many of the provinces. Until fairly recently, drafters of labour legislation have been strongly disposed to accept tripartitism as the normal form of tribunal in labour relations whether in the area of conciliation or of arbitration. The industrial community has become accustomed to this board

system and has been slow to shift over to the single arbitrator. A study in 1961 by the present author of 500 Canadian Collective Agreements showed that only 10 per cent provided for single arbitrators. But in Ontario the proportion choosing the single arbitrator was higher at 23 per cent. There seems to have been some increase in the single arbitrator systems, but the study of the Labour Council of Metropolitan Toronto shows that over 63 per cent were still using the multi-member boards in 1973.

It is suggested that two alternative types of arbitration legislation might be considered for the construction industry of Ontario.

Type A: The law should contain an arbitration clause which provides as follows: (a) the parties should be required to include an arbitration clause; (b) failing such a clause a statutory clause should be presumed to be included; (c) the statutory clause should provide for a single arbitrator; (d) short time-limits on the appointment of the arbitrator, on the hearing, and on the rendering of the award should be established in the law. These might be a little less severe than Nova Scotia, although it is better to err on the side of speed in order to put pressure on the parties to complete the arbitration.

Type B: The law should contain an arbitration clause which provides as follows: (a) the statutory clause outlined in (b), (c), and (d) above should be presumed to be in all construction collective agreements except as provided below; (b) the parties could replace the statutory clause only by authority of the Construction Industry Panel of the Labour Relations Board.

The difference between these two proposals is one of emphasis. The first imposes on the parties the duty to include an arbitration clause, and provides a statutory clause in case they fail to do so. The second provides a mandatory single arbitrator clause which can only be replaced by one designed by the parties by authority of the Board. The second has the merit, if the single arbitrator is considered an advantage to speedy settlement, that it builds in the single arbitrator, but unlike the Nova Scotia Act, it permits the parties to change the procedure if the change is sanctioned by the Construction Industry Panel of the Labour Relations Board.

It is suggested that the second of these alternatives is preferable to the first in that it should discourage the use of tripartite boards of arbitration because it forces the parties to take formal action before the Panel if the statutory clause is to be replaced. Secondly, the tight statutory time limits recommended and the existing authority of the minister to appoint an umpire, on the joint approval of the parties, for the duration of the agreement, should encourage the use of permanent umpires or arbitrators.

Such a policy should eliminate some of the reasons for complaint about arbitration. If permanent umpires are appointed, resort to arbitration could be immediate. The time limits would force the parties to develop simplified procedures which might reduce the resort to legalism now so widely criticized. Also speed should sharply reduce the cost. Finally, if effective, speedy and reliable arbitration can be developed, confidence in the process should be restored and the temptation either to set aside the rule of law by resort to illegal walkouts, or to achieve the same ends by threats of economic force would not be so great. Thus, one of the sources of instability and unrest might be brought under control.

One further observation on arbitration needs to be made regarding arbitration during the life of an agreement. There is an impression rather widely held that arbitration is solely an employee's defensive instrument. It is suggested that this is much too narrow a view and that, particularly in construction, there is need to recognize that there are collective rights of the union as an organization, and also of the employer or employers' association. Most arbitrations are concerned with employee grievances, and most collective agreements are written in language which reflects a preoccupation with employee rights under the agreement. Grievance arbitration serves to protect the employee, and to a large extent it protects the union in its rights since these are frequently associated with employee rights. But there are some rights of the union as an entity which should be protected by the agreement without reference to a particular grievance field by an employee. Regulations regarding the union presence on the premises may be cited as illustrative.

On the employer side the situation is somewhat different since the management is always in the active role of decision-making. Consequently management rights in the relationship are largely protected by management's authority to direct the work force, and to discipline for cause. But there is one situation in which management has no authority within itself to insure its own protection. This is the case when the action threatening a management right under the agreement is a collective one such as a strike in the face of a clause in the agreement which forbids strikes during the life of the agreement. It is submitted that employers in general, and perhaps construction employers in particular, have not sufficiently recognized arbitration as an instrument of defence against strikes in violation of their collective agreement. This is not to ignore the well-known difficulty of establishing union complicity in a collective withdrawal of work, and hence in making a case that the *union* has violated the agreement. That difficulty is usually present. Yet if the problems of walkouts, of

slow downs, and activities such as picketting the job site during the life of an agreement are to be solved, a strong case can be made for doing so through the adjudicative machinery in the hands of the parties than by resort to the courts. If this is to be the case, more attention must be paid to arbitration clauses in the agreement by the parties when agreements are negotiated. But in any case it is important that if a special statutory arbitration clause applicable to construction industry is introduced into the Labour Relations Act it should contain language that ensures the right of unions and employers to seek protection through arbitration. The present section 37(2) of the Ontario Act and 103 of the Nova Scotia Act do appear to establish this right.

But as suggested, the real problem in this situation may be with the attitude of the parties and a limited view that arbitration is for grievances. It is possible, for example, that the fact that in Ontario and practically all of Canada the strike is prohibited during the life of an agreement, and arbitration in this period is compulsory, employers have been encouraged to look upon a strike as a violation of the law rather than a breach of the union's contractual obligation. This may explain the preference for going to court rather than to arbitration. Yet arbitration has the advantage that the matter is confined to the industrial relations issue of the obligation undertaken by the unions to the employer under the agreement. It avoids the question of law-breaking.

In summary, public policy in Ontario has made no special provision for the construction industry in the area of rights arbitration. Consideration might be given by public authorities to an improved system which recognizes the crucial importance of speedy settlement, which encourages the single arbitrator as against the tripartite boards, and protects the right of unions and management to arbitration on their own account. In addition, the parties of interest should give serious thought to the use of permanent umpires rather than ad hoc arbitrators. These improvements should help to speed up the process, avoid wildcat strikes, place more responsibility for maintaining industrial peace on unions, and possibly reduce the cost of arbitration itself.

Jurisdictional disputes

It was suggested in Part x of this report that it is doubtful whether the jurisdictional dispute resolution mechanisms developed in the industry or established in the Labour Relations Act can meet fully the emerging challenge of change. It is now time to examine this problem more thoroughly.

As a start attention will be directed to the provisions in the Ontario Labour Relations Act and in other Jurisdictions as well.

The provision for the resolution of work assignment disputes in the Ontario Labour Relations Act is not confined to the construction industry. Section 81(1) reads in part as follows: 'The Board may inquire into a complaint that a trade union ... was or is requiring an employer ... to assign particular work to persons in a particular trade union or in a particular trade, craft or class rather than to persons in another trade union or in another trade, craft or class, or that an employer was or is assigning work to persons in a particular trade union rather than to persons in another trade union, and it shall direct what action, if any, the employer ... the trade union shall do or refrain from doing with respect to the assignment of work.'

In effect this general authority empowers the Labour Relations Board to make work assignments on the job site where a complaint is filed that an employer has made an assignment in accordance with a requirement by a particular union. Usually this means that one union is claiming that the work is within the scope of its jurisdiction, and therefore should be performed by its members rather than by the members of another union to whom the employee has assigned the work. In the context of the construction industry this means that jobs are at stake.

The situation is complicated in Ontario by the fact that there has existed for several decades the joint machinery for the resolution of jurisdictional disputes in the industry located in Washington. The Ontario law, without specifying it, recognizes this kind of machinery in Section 81(13) and (14) which read:

(13) Where a trade union or council of trade unions and an employer or an employers' organization have made an arrangement to resolve any differences between them arising from the assignment of work, the Board may, upon such terms and conditions as it may fix, postpone inquiring into a complaint under this section until the difference has been dealt with in accordance with such arrangement.

(14) The Board shall not enquire into a complaint made by a trade union, council of trade unions, employer or employers' organization that has entered into a collective agreement that contains a provision requiring the reference of any difference between them arising out of work assignment to a tribunal mutually selected by them with respect to any difference as to work assignment that can be resolved under the collective agreement, and such

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trade union, council of trade unions, employer or employers' organization shall do or abstain from doing anything required of it by the decision of such tribunal.

It is difficult for the layman, untutored in the niceties of legal language to know precisely what the difference between these two subsections really is; (13) uses the term 'arrangement' while (14) uses 'collective agreement.' The Board retains discretion in the first but not the second. Presumably the arrangement to resolve might not include a provision for a binding decision whereas the collective agreement clause providing for a referee would.

Another provision in the Ontario law must be noted. Included in the special part of the Act which applies to the construction industry only is section 124 which requires unions and employers in the construction industry, who have entered into a collective agreement, to designate jurisdictional representatives to act in the event of a dispute as to the assignment of work. Sections 81(3), (4), and (5) require the appropriate jurisdictional representatives to meet and attempt to resolve the jurisdictional dispute as an intervening step before adjudication by the Board.

While this intervening step appears to have some merit, the Royal Commission was informed by representatives of labour and management as well as departmental officers that it has not worked. It appears to be practically a dead letter. The value of a procedure to be used by the parties themselves before having access to the Board would rest on speed and the fact of co-determination among the parties of interest. If it does not provide speedy decisions as to which trade is to get a work assignment the complainant may witness the work being completed by others even if the complainant receives the assignment.

Perhaps a new approach is needed – one that produces a settlement quickly after a complaint is filed. The present system is cumbersome and slow. True it does provide that the Board may act quickly and issue an interim order of assignment where the complainant alleges a strike is imminent or taking place. But it appears that the Board in these situations is inclined to issue an interim order upholding the assignment already made by the employer. This may prevent a strike but it also may protect a wrong assignment. If, as has been represented to us, those who stand to benefit by the original allocation prolong the hearing before the Board by devices all too prevalent in industrial conflict resolution, the play for time can defeat the complaint, not on its merits, but by the passage of time.

The difficulty with speedy determination is that it may not give ample time for the presentation of relevant evidence, and this may be a denial of

justice. Can a system be designed which overcomes this problem and at the same time permits the operation on the construction site to continue without interruption? Unless such a formula can be found the industry faces either continuing injustice or disruption or both. There is no perfect solution but it is possible that a closer approximation to maximizing these goals can be achieved. The proposal which follows is advanced in that context.

It is suggested that any machinery such as that envisaged by section 81 (3), (4), and (5) and section 124 be no longer imposed by law, but that the parties in the industry or sectors thereof be free to design such machinery as they wish, or to have no machinery. Secondly, instead of a more or less automatic interim award which merely confirms the status quo, the complaint should be investigated by an officer of the Board who would be empowered to make a firm assignment based on his investigation. This might uphold the original assignment of the employer, or it might require the employer to reassign the work to the trade presenting the complaint. In any case, the parties of interest would be required to respect the decision. However, there would be a right of appeal to the Construction Industry Division of the Board whose ruling would be final.

This proposal differs from the present system in a number of ways. In the first place this award of the investigating officer is intended to be a true reflection of the merits. It would undoubtedly require the services of a high calibre investigator who also would need to have a good knowledge of the industry. It calls for professional competence. Secondly it avoids a dubious feature of the present law which makes a strike or threat of a strike necessary before the Board can issue an interim order [section 81(8)]. Such a provision forces someone to promote a strike in order to get protection from the Board. Thirdly, while the decision of the investigator would be based on his administrative judgment in relation to his view of the facts, natural justice is protected in the right of appeal by a party disputing the investigating officer's decision.

This does not preclude the industry from developing its own machinery for the resolution of jurisdictional disputes. Indeed the removal of the present statutory jurisdictional representatives might open the way to innovation and inventiveness by the parties and encourage them to solve their problems themselves.

The situation in Ontario has been plagued by conflict over the jurisdictions of the joint machinery in Washington and the Ontario Labour Relations Board. Representations to the Royal Commission indicate that, in general, employers favour having their cases heard by the Board in On-

tario, whereas most unions prefer the private machinery in Washington, although at least one union indicated a strong preference for having these task assignment disputes settled by the Ontario Labour Relations Board. Some construction unions who favour the private machinery argued that there should be only one authority and this should be the Impartial Jurisdictional Disputes Board in Washington. They claimed that having two authorities opens the door to abuse. Parties will try to manipulate their way into appearing before the tribunal most likely to favour their respective positions. Moreover, the private system has an accumulation of decisions and precedents which are based on criteria which have over the years become well known to those involved in the industry. This background of knowledge and decisions of record makes it possible to get quick assignment awards and hence reduces jurisdictional conflict to a minimum. Those who hold these views argue that the authority granted to the Labour Relations Board to adjudicate these issues is disruptive of the private system.

Certainly it is true that cases before the Board in Ontario take much more time than those that are handled in Washington. In the construction industry this can be damaging because of the need for speedy resolution of these disputes.

There appears to be a more fundamental issue under the surface than meets the eye in this dispute over the proper vehicle for the resolution of jurisdictional disputes. This is not simply the mechanical question of what machinery is to be used. Particularly important are the criteria to be used. If the Board introduces new criteria, or if it places greater emphasis on certain criteria than does the private tribunal, the decisions of the two systems will be different. The employers have indicated the need to use the Board on the grounds of greater familiarity with local circumstances and to take these local circumstances into account. There is also reason to believe that the Ontario Board pays more attention to the cost effects of task assignment. If, as it is alleged, the Labour Relations Board gives priority to cost factors it is understandable that the employers would prefer the decisions of that Board. Similarly it explains the distaste for the Labour Relations Board of those unions whose trades are threatened most by technological change in the industry. On the other hand, predator unions serving lesser skilled workmen would derive benefit from cost conscious jurisdictional decisions.

The public policy problems involved in the resolution of jurisdictional disputes in the construction industry are formidable. If there were no orderly procedures for their resolution jurisdictional conflicts would be

settled by the exercise, or threat of the exercise, of industrial power. Yet that method could be very costly indeed. It also would fly in the face of the established policy forbidding work stoppages during the life of a collective agreement.

The unions and employer organizations in construction in the United States designed private machinery for the resolution of conflicts over jurisdiction to avoid the resort to force. But that system raises questions of public policy in Ontario with regard to at least three matters. A brief examination of these matters follows:

1 / The private machinery was designed to include on the union side only unions affiliated with the Construction Trades Department of the AFL-CIO. This means such well-known unions as the Carpenters, the Bricklayers, the Sheetmetal Workers, the Electricians, the Plumbers, and others. These international unions dominate the unionized sectors of the industry in Ontario, and indeed in Canada as a whole except in Quebec where the Confederation of National Trade Unions and one or two others represent a significant portion, although not a majority, of the workers. Even in Ontario there are a few 'independents.' All of these outsiders are denied access to the Impartial Jurisdictional Disputes Board in Washington. To admit them would be to violate a long cherished and widely held union view that dual unionism is intolerable in the labour movement. The internationals have many times made it clear that they oppose the presence on the construction sites of construction unions which are not affiliated. Moreover, the rejection of dual unionism would be a total barrier to the admission of the independents to the jurisdictional disputes system. Even if they could bring cases to the joint private machinery it is unthinkable that justice would be done. For this reason alone there would appear to be a need for a public system.

2 / Private machinery controlled by the unions and employer organizations in the industry is likely to reach decisions which tend to protect high cost obsolescence in the construction methods used. An employer who finds that the jurisdictional dispute machinery requires him to assign work to a trade with high wage rates rather than to another of lower rates may be discouraged from introducing labour cost-saving changes. Since the decisions of the Impartial Jurisdictional Disputes Board in Washington and its predecessor, the National Joint Board for the Settlement of Jurisdictional Disputes, are based on tradition and precedent and earlier decisions of record as contained in the 'Green Book,' they tend to support somewhat outmoded jurisdictional descriptions and the web of restrictive work rules woven around them by earlier union pressure. The strong open-shop

movement in the industry in the United States at the present time appears to be at least partly a reaction to union barriers to change. And while jurisdictional disputes represent conflicts of interest among different trades, their resolution by private machinery is bound to have a depressing impact on the rate of change in the technology of production.

3 / Closely related to the question of protecting skill obsolescence is the support the joint private machinery may give to structural obsolescence, particularly on the union side. If the balance of influence of technological change is in the direction of reducing the importance of the separate trades, it is likely that efficient use of manpower calls for considerable restructuring of unions in the industry. This could take the form of multi-skill units represented either by councils of unions from different trades or by the emergence of unions who take for their jurisdictional territory functions now assigned to two or more trades. Those unions which have collective agreements with general contractor associations, and hence have the opportunity to extend their agreements by subcontract clauses have a powerful instrument in support of their jurisdictional territory in spite of technological change. The evolution of union structure in response to the opportunities presented by technological possibilities may be delayed or stopped and the public denied the benefits of change.

It is easy to recommend that in the settlement of jurisdictional conflicts in construction there is a public interest to be taken into account, and that therefore there is a role for some public agency such as the Labour Relations Board in the making of disputed work assignments. But there are conflicting public interests to be taken into account. The public is concerned with industrial peace on the construction sites and this gives support to a Labour Relations Board function if these disputes cannot be settled with dispatch and with justice to the parties of interest. Justice in this case must relate to some set of criteria which is widely accepted by all concerned. Yet it is this question of acceptable criteria where there is bound to be much controversy.

It was noted that the Labour Relations Board pays more attention to the cost element. In other words the Board is inclined to add criteria in support of the public interest not only in relation to industrial peace, but also with regard to the costs of construction. It is a question whether criteria derived from the experience of the parties, which look not only to industrial peace but also to the preservation of existing rights in a world of change, are compatible with criteria such as costs of construction which are matters of interest to the employers and particularly to the buying public.

The theme of this paper was described in an earlier section as being

principally the need for speed in the resolution of all forms of conflict in the construction industry; and this element is important in the industry. But in the assignment issue there is the problem of the contents of the decisions also. In effect this is saying that the industry and its unions and employer associations cannot be relied upon to make assignments that conform to the public interest.

The legislation has recognized the importance of the principle that so far as possible the private parties of interest should bear the burden of responsibility of resolving conflicts with industrial peace as a goal. It does so by permitting the Board to postpone hearings in a situation where the parties have made an arrangement to resolve differences concerning assignment [section 81(13)], and by prohibiting the Board from investigating a complaint made by a party which has entered into a collective agreement containing a provision for referring such a work assignment to a tribunal established for that purpose [section 81(14)]. In other words agreements to deal with jurisdictional complaints before the Impartial Jurisdictional Disputes Board take precedence over the Labour Relations Board. If all of the parties in the industry should be bound by agreements providing for settlement by private machinery there would be no cases before the Board. In other words, the legislators appear to have recognized application to the Labour Relations Board as a standby arrangement to function when private machinery was not available.

The problem of criteria in effect makes the public system under the Labour Relations Board something more than a standby alternative. It makes it a different system because it emphasizes the cost element, and to a degree because of the weight given to local circumstances.

The dilemma of public policy is that it is trying to support two procedures which appear to be incompatible. The Ontario Board system is available as a right. The law, however, permits the parties to opt out by accepting the procedure of the Impartial Jurisdictional Disputes Board in Washington. But to do so requires that all parties of interest accept this procedure. In a sense the objectives of the law would be achieved if all parties elected the Washington system and no cases came to the Board. But that is not happening for the reasons outlined above. It was indicated in discussion, for example, that some contractor groups refuse to sign agreements which require the use of the private system in jurisdictional disputes.

In spite of these difficulties, the case for maintaining the authority of the Ontario Labour Relations Board is strong. But two matters require attention. First, there should be some reform which will guarantee speed. The investigator proposal outlined above is one possible way of achieving this,

and it is consistent with the spirit of clause 91(13) dealing with certification. Secondly, there needs to be clarification of the goals of the system. Industrial peace is one, and this means speedy resolution of disputes. A refining of the jurisdictions of the various unions in the light of change is another. The third, and most formidable, is some general agreement by unions, employers, and public authority on the criteria to be used.

Quebec

The most dramatic legislative experiment in Canada which attempts to deal with the industrial relations problems peculiar to the construction industry is that of Quebec. The Construction Industry Labour Relations Act was first passed in 1968 and has been amended each year since. It may be looked upon as a massive attempt to cope with all of the areas of instability in construction labour relations in one major piece of legislation. It is risky to take any specific provision and treat it in isolation in comparison with a clause in the Ontario Labour Relations Act directed at the same problem area. The reason that this is so is the interdependence of the various clauses and their impact in application on one another. Thus, for example, the introduction of statutory recognition of certain union organizations and employer associations radically alters the problem of unfair labour practices, although it was designed to stabilize the union side and the formal structural relationships of the union and employers in the industry. These observations on the Quebec system are introduced here, not with the notion of recommending imitation of any specific provision, but because in the course of our investigations there were frequent references by some of the parties of interest and others outside the industry, to the Quebec experiment. There is considerable interest in the Quebec system, and some of the proposals coming to our attention are themselves imitative in part at least. Therefore, it seemed wise to present at least a short outline and analysis of the Quebec system for purposes of perspective.

Public policy in Quebec has established collective bargaining in construction on a multiemployer and multiunion basis, using the geographic principle and the procedure of jurisdictional extension of the collective agreement. There is no certification of unions under the Labour Code, nor is there accreditation of employer associations as in Ontario. Replacing these two procedures was in the first instance statutory recognition on the union side of certain central union bodies including the Quebec Federation of Labour on behalf of its construction affiliates and the Confederation of National Trade Unions on behalf of its construction affiliates. Individual

unions are not certified. On the employer side the law recognized five associations of employers including the Quebec Construction Federation, the Provincial Association of Residential Contractors, the Association of Roads and Highway Builders, the Corporation of Master Electricians of Quebec, and the Corporation of Master Pipe-Mechanics of Quebec.

Sole right to negotiate on behalf of the respective sides rests with these named organizations. No other negotiation is legal. It is true that the law provides for the termination of these rights or for the granting of rights to new associations annually on the basis of an investigation and in accordance with a complicated membership percentage formula (sections 6, 7, 8). But the fact remains that dislodgement is highly unlikely. Originally the law provided for the negotiation of a collective agreement 'for the whole of the province of Quebec or a stated district.' This was repealed in 1973 and replaced by the following (section 13), 'Any collective agreement made under this Act shall determine the conditions of employment applicable to all trades and employments in the construction industry in the province of Quebec; only one agreement may be made with respect to such trades and employments.' Thus Quebec now provides for only one collective agreement for the entire province, for the entire construction industry.

For many years Quebec has had on its statute books the Collective Agreement Decrees Act which provides for the extension by decree on application to the minister of the terms of a collective agreement negotiated between a union or council of unions and an employers' organization. In this way, a private negotiation can be converted into a public law by proclamation. In the new Construction Industry Act, the principle involved is contained in Section 14, which reads: 'The Lieutenant-Governor in Council, upon petition of any representative association which has signed a collective agreement, may order that such agreement shall also bind all the employees and employers in the construction industry in the province of Quebec.' In other words the bargaining parties are in effect legislating for the whole province for the whole industry.

The question might be asked as to why there is any necessity to convert the sole collective agreement in the industry into a decree. The answer is that the decree is a proclamation of the government and therefore, has the status of public law in addition to its status as a private agreement. Juridical extension also establishes the legal status of employers and employees who are not identified with any of the representative associations involved in the negotiations. Section 17 states in part: '... The clauses of the agreement reproduced in the decree ... shall become executory for all the

employers and all the employees ...' And section 20 reads: 'The adoption of the decree shall render all the clauses of the collective agreement obligatory; its provisions entail a matter of public order.'

Most Canadian labour relations acts impose requirements for the inclusion of some particular provisions in any collective agreement. Common are procedural requirements such as recognition, the length of agreements, grievance arbitration, and the like. The Quebec Construction Industry Labour Relations Act goes much farther than any other: (section 28) 'The decree must contain provisions respecting the classification of employments, remuneration, payroll, working hours, overtime, holidays, vacation with pay, notice of dismissal, complementary security plan, the term of the decree and the procedure for amending the decree. The decree must also contain provisions respecting union security, including the advance deduction of assessments, union delegates, the procedure for settling grievances and the exercise of employees' recourses against disciplinary measures taken by the employer.' The framework is mandatory. There is also a comprehensive list of items which may be included in the decree such as seniority, mobility of manpower, work in rotation, night work, Sunday work, and wage increases, bonuses, various indemnities and allowances, notice boards, cloakrooms, and tools.

This attention to detail is not surprising in the light of the sole authority vested in the representative organizations to negotiate the agreement and request its juridical extension as the industrial relations law governing the construction sites.

Section 30 provides for the arbitration of grievances. The parties are required to choose a single arbitration officer at the time of negotiation, but if they cannot agree, the minister shall appoint one from among the persons whose names appear on an official list. The arbitrator is required under section 31 to render an award within five days of the end of the inquiry or within a maximum of sixty days. This is not as drastic as the Nova Scotia provision but it is similar in that it imposes a single arbitrator and sets inflexible time limits.

A contentious problem area whose ramifications are revealed in the proceedings of the Royal Commission is that involving union membership, subcontract clauses and work allocation. Some of the Quebec provisions are instructive. Section 33 contains the usual provision guaranteeing an employee the right to join an association of his choice, but it also prohibits him from belonging to two unions at the same time, a practice not unknown in Ontario especially in circumstances of sharp union rivalry. In Quebec a union member may withdraw from membership but only during the

seventh month before the date of expiry of the decree or agreement. In that month he may transfer from one union to another.

Particularly important, in the light of union security and subcontract clauses in Ontario is the following: Section 33a 'No employer ... shall refuse to employ or dismiss a person because such a person or the association of employees of which he is a member ceases or declares his or its intention to cease to be affiliated or with a representative association or to pay union assessments to such representative association.'

And along the same lines, section 39 forbids a union from resorting to discrimination against an employee for the sole reason that he belongs to another union or no union. Section 40 forbids an employer from refusing to hire an employee for the sole reason that he was not referred through a union or its hiring hall. In other words lack of access to a hiring hall shall not be a bar to obtaining work. And section 41 provides that no union shall refuse membership to an employee because he was not hired through its hiring hall.

Before consideration of the implications of these provisions a few more unusual features of the Quebec system should be mentioned.

Consistent with the principle in the Collective Agreement Decrees Act the Construction Industry Act provides for a joint parity commission clothed with legal entity and empowered to administer the decree. It is made up of persons representative of the representative associations and a chairman appointed by the government after consultation with the parties. It has very large powers and assumes much of the character of a governing body of industrial relations in the industry.

There is special provision for enforcing rights guaranteed by the section dealing with freedom of association. Section 42 paves the way for complaints to the minister who is empowered to appoint an investigating officer and impose an arbitrator after eight-days' delay. The arbitrator's award is to be rendered within thirty days and is binding. The burden of proof is on the employer.

There has been much debate about who should take the initiative in prosecutions for violation of the labour relations acts of the various provinces. Some argue that the victims of legal violations should bear the responsibility of prosecution. Others argue that this should be a function of public authority, on the grounds that an action in court by one of the parties in the construction industry may lead to reprisal action and further damage to the innocent party. Clause 56a, inserted in the Quebec Construction Industry Labour Relations Act in 1972, is interesting. It reads as follows: 'The Attorney-General shall make an inquiry each time a written com-

plaint brings to his attention an infringement of this act; if he is of opinion that such infringement has occurred, he shall prosecute the offender as circumstances warrant.'

In some jurisdictions attorneys-general have been reluctant to assume this responsibility. In Quebec the law makes it clear that there is a responsibility on this public officer.

There are many more clauses which bear witness to the fact that Quebec is engaged in a massive experiment in construction industry labour relations. Those outlined will suffice to indicate the nature of the experiment. It remains to consider the various provisions in relation to the problems inherent in the industry, and in particular those involving insecurity and instability.

The first important feature to note is that Quebec has, for the construction industry, abandoned the principle so jealously defended by North American unions, and especially construction unions, which holds that dual unionism is not to be tolerated. The law provides a place at the bargaining table for any union central which can meet the necessary membership percentage requirement.

Secondly the concept of bargaining units based on membership in a given union in a specific territory is abandoned in favour of a single unit of all employees in the industry in the province. There is no sector which is not covered by the decree.

Thirdly bargaining by union locals or by a particular trade is replaced by multitrade union and multiemployer associational bargaining for the province.

Fourthly bargaining is really concerned with the decree which means that private agreement is converted into public law and regulation.

The Quebec law should eliminate much of the conflict between employers and employees over union membership since discouraging membership does not relieve the employer of the costs imposed by the collective agreement. The decree covers the non-union as well as the union employer.

The system does not eliminate the conflict among unions for members, but it does limit open competition to one month in each year when employees are free to change their union allegiance. But the significance of membership is altered by the legal barriers to discrimination in employment and discrimination regarding union membership. The Quebec law contains a form of 'right to work' clause since union membership cannot be used as a requirement for employment in the construction industry. Similarly the use of subcontract clauses to guarantee the allocation of work to

the members of a particular union is also ruled out. However, there is imposed on general contractors and the subcontractors a joint responsibility to ensure the payment of wages fixed by the decree. This, if effective, should eliminate the practice present in other jurisdictions of subcontracting to non-union employers in order to avoid the high labour costs of unionized employees.

Embedded within the authority of the Parity Commission is the power to resolve work assignment disputes among unions. Indeed the functioning of the Parity Commission is crucial to the success or failure of the system. For this reason it has been clothed with a great deal of authority to establish systems of registration of work, to impose employment record system on employers, to require monthly reports, levy on the employers and employees the amounts required to finance its operations, and so on, subject to approval by the lieutenant-governor-in-council.

It would appear that if the Quebec system operated as intended in the legislation, most of the instability and uncertainty which beset labour relations in the industry would be reduced or eliminated. This is not the place to engage in a detailed critique of the system, but one or two illustrations of the difficulties encountered may be instructive.

Sectorial bargaining on the grand scale was bound to produce tensions and strains among the unions. The presence of the CNTU and the internationals at the same bargaining table invited tactical manoeuvring between these union centrals and led to deadlock. There was no way to resolve the conflict between the right of both organizations to be involved in the negotiations and at the same time to protect the minority party in its right to an effective say in the process. Either the minority would have a veto power or no power. It is not surprising that at one stage the minority representatives withdrew from negotiations.

There appears to have been considerable violation of the basic freedom of association. In spite of the law, in some instances employers have faced the old problem of picket lines established to protect the presence on job sites of employees who were members of another union.

There is also some indication that the system imposes on the unions, both as between the CNTU and internationals, and among the internationals themselves, severe problems of accommodation to reach policy decisions which can make possible an agreed position vis-à-vis the employers.

Ontario can learn from the Quebec experiment in sectorial bargaining in the construction industry, and the lessons are both positive and negative. Something approximating the Quebec procedure for grievance-handling has already been suggested in this report. The settlement of jurisdictional

disputes cannot be accomplished on the Quebec model because of the absence in Ontario of anything like the Construction Industry Commission of Quebec. What is needed is change that speeds up the present procedure and strengthens the authority of the Ontario Labour Relations Board. Proposals have already been advanced to this end.

On the more fundamental question of bargaining structure, it is unlikely that either construction labour or construction employers will favour multitrade and multiunion bargaining on a provincial basis. There is evidence of more than a casual interest in province-wide bargaining on a single union basis. If this movement should succeed there would be only as many bargaining units as there are unions in the industry. It is a concept consistent with the philosophy that opposes dual unionism. In Quebec the system attempts to solve the problem of competitive unions by supporting dual unionism in both the bargaining process leading to the decree and on the construction sites. It has not been particularly successful. It is unlikely that the industry in Ontario will be willing to surrender the independence of the parties now existing for the monolithism and vastly increased public intervention of Quebec. It should be noted that Quebec has had to contend with a problem complicated by the presence of the CNTU as a serious competitor to the internationals, a problem only barely present in Ontario.

It may be that at some time in the future there will be multitrade bargaining on a provincial basis, but that is unlikely for the immediate future. It is possible that the idea of province-wide bargaining on an individual-trade basis will gain support and be tried out increasingly by the parties. Even that modest approach towards the Quebec system will require considerable structural changes on both sides, and in the relationships between the two sides. The present circumstances suggest a continued heavy reliance on voluntary experiment rather than public imposition of sectorial bargaining as in Quebec.

The establishment of the Construction Industry Panel was a move of great importance. The work it has been doing shows much promise. Its creation is consistent with the view that the major responsibility for the evolution of the institutions of industrial relationships must rest with the parties. There may be, however, an emerging problem of the relationship between the members of the Panel and the constituencies they represent. A case can be made for a program whose object would be to disseminate information among those involved in the construction industry to increase their understanding of the problems of industrial relationships in the industry. Serious consideration might be given to the establishment of a construction industry joint labour-management committee linked with one or

more of the universities whose object would be to conduct such programs of research and information dissemination through publications, conferences, seminars and other available devices. Such a development could be built around the existing panel, and should be considered complementary and in no way competitive with it.

XII. SUMMARY AND COMMENTS

The burden of the argument in this memorandum is that a key to turbulence in the construction industry is to be found in the chronic insecurity which confronts all participants from builders through the whole complex of contractors on the business or employer side, and the unions and the workmen on the employee side. This, of course, is a condition of the enterprise system and is not in principle unique to construction. All businesses face uncertainties and the possibility, in a competitive world, of failure. Employed members of the labour force are seldom guaranteed either continued employment or income. But between construction and most other economic sectors there is at least an important degree of difference. This difference is discontinuity which is characteristic of the construction industry, and which places on those engaged in it a special burden of uncertainty and insecurity.

In this perspective much of what has been revealed in the transcripts becomes more understandable. Evidence of bidding rings formed by contractors may be seen as efforts of mutual self-help by contractors determined to control the allocation of contracts, to limit the number of successful bidders, and to establish price-fixing minima. In economic terms the bidding ring is a device whose purpose is to insulate the participants from the full force of the market.

The evidence also suggests that such rings are themselves unstable and fragile. They face at least two threats; attack from without and defection from within. Both of these appear to have been active in the sectors of the industry under investigation. On the other hand the bid-peddling device seems to have been used to induce scaling down of original bids and to strengthen the competitive factor on behalf of those inviting bids.

The transcripts also suggest that in some instances contractors have attempted to protect bidding rings by enlisting the support of union leaders whose control over hiring halls has provided a means of denying a supply of tradesmen to 'outsiders.' This is another manifestation of a flight from competition.

Contractors' testimony to the effect that they have attempted to obtain

union contracts regardless of whether their employees were members of, or were represented by, the relevant union, indicates the problem of new contractor entrants to a trade, confronted by the subcontracting system, the union-dominated hiring hall, and in some cases by protective 'deals' between a union leader and the established contractors bent on keeping down competition.

Whether these collusive arrangements were within the law or were violations is important to the public of Ontario, which naturally has an interest in protecting the legal order and the rights of those whose interests may be damaged by illegal actions. But it is equally important to understand the motivation of the transgressors, without condoning them. To conclude that the problems under investigation by the Commission may be solved by a simple 'law and order' approach begs the question of the real pressures which operate in the industry and which encourage the protective activities already mentioned, whether legal or otherwise.

The hiring hall itself has a double purpose. It serves to guarantee that only union men will be able to obtain work on the construction sites, and it provides a formula and a procedure for allocating the available work among the union-represented workmen. It is an instrument developed by the unions to bring order into the construction industry labour market and to reduce the level of employment uncertainty which characterizes the industry. But like other devices already mentioned, it also represents an attempt to limit competition.

Solutions to problems sometimes have the effect of introducing new problems. This is true of the union-controlled hiring hall. If the only men to be allowed to work on the construction sites are those who are supplied by the union with whom the employer has an agreement, the employer may be denied access to highly qualified men outside the union. If union membership is open to all qualified workmen, the door to employment will not be closed, but the employer may still be required to accept into employment individuals he might consider unsuitable. It is interesting to note that some flexibility in applying the hiring hall formula is permitted by some of the unions to accommodate the employers. Yet discretion is limited, according to union spokesmen, by the fact that out-of-work members keep a close watch on the priority lists and object strenuously if they discover discriminatory employment allocations.

The hiring hall is not an instrument that operates in isolation. It is in support of, and supported by, the closed-shop principle and the subcontract clause, as well as clauses in agreements which concern the selection of apprentices and control their numbers. Together, if these mutually

supporting devices function as intended by the unions, they control the flow of workmen into the industry and onto the construction sites. In this sense this collection of instruments may be looked upon as a construction industry manpower management organization, the principal purpose of which is to manipulate the job market in construction for the benefit of the unionized employees.

The threats to the system come from a number of sources. Employers who wish to take advantage of lower cost labour may attempt to operate with a non-unionized labour. The home-building sector in Ontario appears to be largely unorganized, and the data before the Commission includes references to the conflicts which occurred when the unions moved into the residential high-rise field.

Some employers have attempted to retain discretion with regard to production techniques which conflict with established union policies. The struggle revealed in the transcript of the hearings over an employer's determination to operate with piecework rates, contrary to established union policy, allegedly led to proposals from the employer side of strong-arm methods of control of objecting union members, to attempted corruption of union officials, to threats of violence, and to actual violence.

To the employer the union stood in the way of lower cost methods he had been able to introduce in at least one other area, and to his ambition to expand his business through cost reduction methods not available to his unionized competitors. To the union the employer's ambitions would destroy the system of job protection, freedom from speed-up, and would threaten the existence of the union itself. When the stakes are this high an element of desperation may enter.

The unionized sector of the construction industry in Ontario is dominated by the international unions affiliated with the AFL-CIO and its Construction Trades Department. These unions, as has been pointed out, from time to time, face serious jurisdictional problems, problems which are aggravated by technological change in the industry. The private machinery developed in the United States has had considerable success in resolving these inter-union conflicts, but it has not been entirely successful. There are examples of unions failing to comply with the results of the appeal machinery. There is clearly a distaste for this machinery by the employers, and one or two unions also indicated a preference for the procedure available through the Ontario Labour Relations Board.

The international unions have no satisfactory answer to the problem of jurisdictional disputes between one of their group and any union which operates as an independent outside the AFL-CIO Construction Trades De-

partment. It is therefore not surprising that independents favour the resolution of such conflicts before the Labour Relations Board.

The jurisdictional problem in the construction industry is particularly difficult because of the conflicting objectives involved. There are two major areas of public policy to consider. The first concerns the question of the appropriate tribunal to be granted the authority to decide jurisdictional conflicts. Should it be the private tribunal developed by the industry or should it be the public tribunal, the Labour Relations Board? Is it possible to retain both and, by improved procedures, establish a workable relationship between them so that the vexed issue of jurisdictional conflict can be handled and such conflicts eliminated? This is improbable because of the growing importance of jurisdiction to the survival of some of the trades.

The second aspect of this problem is that posed by the independent unions. While they are almost insignificant numerically, in principle they may be important. The evidence shows a high level of intolerance in the international unions towards the independents and a belief that there is no place on the construction sites for them. There is a strong sense among the internationals that legitimacy is vested only in them and their system. From the point of view of the independents this attitude means that they are to be confined to peripheral areas or eliminated altogether. And this means trouble for any contractor who may be so unfortunate as to be tied by certification to the one of independents. Because of the international controlled system of contracts and subcontract clauses these contractors in a bargaining relationship with the independents may find it impossible to bid successfully on contracts no matter the price offered in the bid. In other words the intention of certification may be defeated by the system under the control of the internationals. The issue is further complicated by the fact that at least one independent operates as an industrial union thereby coming into jurisdictional conflict with several internationals.

Provincial authorities may find it necessary to re-examine both aspects of this jurisdictional problem again. In passing, it is worth noting that Quebec, where there were two strong union centrals, attempted to solve the problem by statutory determination of the right of specified union bodies to represent construction workers in collective bargaining. But in doing so they gave legislative backing to a system of dual unionism, a system alien to the North American tradition and indeed to conventional North American labour law and policy.

Labourers' International Union of North America, Local 183

I INTRODUCTION

At the outset, the Labourers' International Union of North America, Local 183 ('Local 183') wishes to thank the Commission for the opportunity of presenting this brief. The purpose of the brief is to ensure that the Commission and the public are fully and properly informed of all relevant facts and circumstances pertaining to the residential concrete forming industry in Metropolitan Toronto and vicinity ('Forming Industry'). The record, indeed, will establish that Local 183, has, since 1969, requested the Ontario Government to conduct an inquiry into the Forming Industry. In submitting this brief, Local 183 believes that the Commission is interested in investigating the reasons why the existing Provincial Legislation, including the Ontario Labour Relations Act, has failed to eliminate problems in the Forming Industry.

2 HISTORY OF LOCAL 183

(a) On August 25th, 1952, the International Hod Carriers' Building and Common Labourers' Union of America (now known as the Labourers' International Union of North America and hereinafter called 'the Labourers' International') issued a Charter for a Local Union to be established in Toronto, Ontario to be known as 'Ontario Hydro Workers, Local Union No. 183' with jurisdiction covering all of Ontario. When Local 183 was first established, there were approximately 400 persons who became mem-

bers. Initially, Local 183 succeeded in organizing all Hydro-Electric Power Commission of Ontario construction employees coming within Local 183's jurisdiction in Ontario.

(b) During the 1950's, as a result of the Ontario Hydro contracting out a large part of its construction work, the Labourers' International granted Local 183 jurisdiction to organize and represent employees engaged by contractors working at Ontario Hydro projects in Ontario known as 'utility contractors' which specialized in installation of cables for such companies as Ontario Hydro, Bell Canada and municipal hydro commissions.

(c) Although initially, Local 183's geographic jurisdiction was for all of Ontario, such jurisdiction was later restricted to the County of Simcoe and the area covered by the Ontario Labour Relations Board Geographic Area No. 8 described as follows: Metropolitan Toronto, the Regional Municipality of York and the County of Peel, the Township of Esquising and the Towns of Oakville and Milton, in the County of Halton and the Township of Pickering in the County of Ontario.

(d) In 1958, the Labourers' International granted Local 183 jurisdiction over road building, sewers, watermain and subway construction, which for the most part was unorganized at that time. Local 183's province-wide jurisdiction over building construction at Ontario Hydro projects was transferred from Local 183 to various other Locals of the Labourers' International except for jurisdiction in relation to Ontario Hydro 'lines and stations' projects in Ontario. This transfer of jurisdiction resulted in Local 183's membership being reduced by approximately two-thirds.

(e) Local 183's attempts to organize employees of road, sewer and watermain contractors proved successful and accordingly, in 1964, the Labourers' International granted Local 183 jurisdiction over 'heavy construction' viz bridges, dams and other large structures involving heavy engineering techniques. Local 183 was also granted certain additional jurisdiction covering industries such as pipelines and landscaping in the area of Metropolitan Toronto and vicinity.

(f) In 1968, Local 183 was requested to organize a group of miners employed in mining development in the Sudbury area. Local 183's intention at that time was to organize all tunnel work in Ontario as was the case with its sister Local in British Columbia. At this time, Local 183 already represented a substantial number of miners in southern Ontario engaged in subway, sewers and tunnel construction. In Sudbury, the Mine, Mill and Smelter Workers' Union and the United Steelworkers of America had failed in their attempts to organize these miners. Despite strong opposition from the Steelworkers' Union and from the various employers, Local 183

succeeded in certifying Dravo of Canada Limited and subsequently entered into a collective agreement with that company. At one time, Local 183 had 980 members engaged in mining development in Sudbury. In 1972, as mining development work decreased in the Sudbury area, Local 183's membership was substantially reduced. Accordingly, in order to afford greater protection to Local 183's Sudbury members, including being able to provide them with greater employment opportunities, Local 183's jurisdiction in mining development was transferred to Local 493, the Sudbury based Local of the Labourers' International.

(g) In April, 1969, the Labourers' International granted Local 183 jurisdiction to organize workers engaged on residential construction projects in Metropolitan Toronto and vicinity except workers employed as bricklayers and plasterers' helpers. This enabled Local 183 to organize concrete forming workers and employees of apartment builders who were not represented by any trade union. We will deal in greater detail with Local 183's efforts to organize in the Forming Industry.

(h) Local 183 did not concentrate all of its efforts in organizing in the construction industry but continued to organize in other areas where employees desired representation by a bargaining agent, examples of which are as follows:

(i) Local 183 organized approximately 50 employees engaged at the Canadian Radiator Manufacturing Co. Limited.

(ii) Local 183 organized approximately 20 employees engaged at Wayne Pump of Canada Ltd.

(iii) Local 183 organized the employees of Munisan Limited, a garbage collection company which now employs approximately 150 persons.

(iv) Local 183 has organized male and female dental technicians at two Toronto laboratories, the bargaining rights for whom were transferred to the Amalgamated Jewelry, and Allied Trades Workers Union, Local 33, Toronto, Affiliated with International Jewelry Workers Union CLC AFL-CIO, at the request of the employees in the bargaining units.

(v) Local 183 organized persons engaged as oil burner mechanics and once having organized a representative number of the companies engaged in the Metropolitan Toronto area, Local 183 encouraged these employees and gave them financial and other assistance to obtain a separate Local Union Charter from the Labourers' International which is now known as Oil and Gas Technicians, Service, Domestic and General Workers Union Local 1267.

(vi) Local 183 organized approximately 200 persons employed by security guard companies such as S.I.S. Protection Company and Knight Security

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Guards Limited. The Ontario Labour Relations Board refused to certify Local 183 for a bargaining unit of security guards employed by Knight Security Guards Limited to protect the property, not of Knight Security Guards Limited, but of other employers, for the reason that:

‘... in order to give full effect to the words used in Section 9 [now Section 11 of the Labour Relations Act], we are of the opinion that the unqualified term guard as used in the latter part of the Section refers to the type of guard employed by the respondent in this case and we therefore find that, since the applicant admits to membership persons other than guards, the applicant is precluded by the operation of Section 9 to represent the employees of the respondent in this case.’

(Labourers' International Union of North America, Local 183 v. Knight Security Guards Limited, O.L.R.B. Monthly Report, September, 1968, page 588)

Local 183 instituted certiorari proceedings in the Supreme Court of Ontario to quash the said decision of the Board. Although the Court of first instance and the Ontario Court of Appeal disagreed with the Board's interpretation of Section 9 of the Act, the Courts were unable to interfere with the decision by reason of the privative clause of the Act. Mr. Justice Laskin, as he then was, stated on behalf of the Court of Appeal:

‘Although we do not adopt the interpretation placed upon Section 9 by the Board, we are of the opinion that its statutory powers extend to the construction of provisions such as Section 9 and to the application of those provisions as construed, as being integral to the issues confided to its jurisdiction. In view of the preclusive effect of Sections 79 and 80 [now Sections 95 and 97] of the Labour Relations Act, the Board's decision *although based on a construction which is unacceptable to this Court*, is not reviewable.’ (emphasis added)

See *Labourers' International Union of North America, Local 183 v. Knight Security Guards Ltd.* (1969) 4 D.L.R. (3d) 45 (Ont. H.C.); aff'd (1969) 5 D.L.R. (3d) 707 (Ont. C.A.)

(vii) Local 183 organized four tree surgeon companies engaged in the Metropolitan Toronto area including Cedarvale Tree Services Ltd., which company instituted certiorari proceedings in the Supreme Court of Ontario to quash the Board's decision in which proceedings the company was successful. (*Cedarvale Tree Services Ltd.*, O.L.R.B. Monthly Report, Feb-

ruary, 1970, page 1305, *R. v. Ontario Labour Relations Board, ex parte Cedarvale Tree Services Ltd.*, [1971] 1 O.R. 38 (Ont. H.C.), *Re Cedarvale Tree Services Ltd. v. Labourers' International Union of North America, Local 183* [1971] 3 O.R. 832 (Ont. C.A.)) The result of the Court proceedings was that since the primary business of Cedarvale Tree Services Ltd. was 'horticulture' then by reason of Section 2(c) of the Ontario Labour Relations Act, the said Act was not applicable to the company and accordingly, Local 183 could not be certified as bargaining agent for its employees. Local 183, being dissatisfied with the results of the Court proceedings, and in particular with the exclusion of these employees from coverage by the Act, formally requested the Premier of Ontario to amend the Act so that these employees could be afforded the benefits from collective bargaining on their behalf as envisaged by the Act. Local 183's efforts in this regard did not lead to any response from the Ontario Government.

3 PARTICIPATION BY LOCAL 183 IN OTHER MISCELLANEOUS MATTERS

(a) *SAFETY AND ACCIDENT PREVENTION* – Local 183 has always been and continues to be involved in all aspects of construction safety. For example, during 1968, Local 183 initiated a campaign to improve upon safety conditions in the construction industry, which campaign was the motivating force for the establishment of a Joint Committee on Construction Safety participated in by the Ontario Federation of Labour, the Provincial Building and Construction Trades Council of Ontario, the Toronto Building and Construction Trades Council and the Construction Safety Association of Ontario. The Committee prepared and presented an extensive brief to the Ontario Department of Labour in December, 1968 which resulted in several amendments to safety legislation including a recent amendment providing for provincial appointment and regulation of safety inspectors under the Construction Safety Act of Ontario.

(b) *WORKMEN'S COMPENSATION* – In September, 1969, Local 183 prepared and presented a brief to the Royal Commission on Workmen's Compensation in Ontario as well as attending several of the hearings before the Commissioner, the Honourable Mr. Justice McGillivray of the Ontario Court of Appeal, for the purpose of presenting evidence and submissions. Several of Local 183's recommendations to the Commission were accepted such as increased benefits to widows, orphans and injured workmen as well as increased burial expenses. In addition, the previous waiting period before benefits could be given was reduced from five to two days.

(c) *CAISSON DISEASE - Medical Research* – Local 183 members have always been involved in tunnel construction, i.e. construction of subways for the Toronto Transit Commission. As a result, Local 183 has always played an active role in improving upon safety legislation pertaining to tunnels, which legislation has effectively reduced the number of accidents in this type of work. Furthermore, due to somewhat peculiar and unsatisfactory soil conditions in Metropolitan Toronto, a large portion of tunnel work has been constructed under conditions of compressed air. Very little medical information has been made available on the effects on human life when working under conditions of compressed air. Accordingly, Local 183, in view of its concern for the welfare of its members engaged in this type of work, sponsored financially and otherwise, a thorough research and study of this problem.

As a result of Local 183's efforts, the Ontario Workmen's Compensation Board retained Dr. G. Gammara to commence a study of Caisson Disease and the Board sponsored Dr. Gammara for approximately nine months after which Local 183 became his sole sponsor. Dr. Gammara's research has taken approximately six years and cost at least \$60,000.00 which has been paid for by Local 183. The results of Dr. Gammara's research will shortly appear in a book to be published by Harper and Row of New York. The approximate cost of publishing this book is between \$15,000.00 and \$20,000.00 and is being paid for by the Labourers' International. Already, copies of this book have been requested by labour departments in West Germany, England and the United States.

(d) *PROBLEMS OF UNEMPLOYMENT* – Local 183 was responsible for establishing a committee in Toronto known as the Mayor's Emergency Unemployment Committee to deal with the then chronic unemployment situation.

(e) *RETRAINING PROGRAMS* – In 1969, Local 183 was instrumental in establishing retraining programs for its members and any others who wished to participate, which programs were established with the co-operation of Canada Manpower, the Ontario Department of Education and the George Brown College of Applied Arts and Technology.

(f) *TORONTO SUBWAY CONSTRUCTION* – Local 183 representatives were and continue to be consulted by the Toronto Transit Commission on such matters as type of subway construction and safety.

RESIDENTIAL CONCRETE FORMING INDUSTRY IN METROPOLITAN TORONTO AND VICINITY

4 DEVELOPMENT OF THE RESIDENTIAL CONCRETE FORMING INDUSTRY IN METROPOLITAN TORONTO AND VICINITY

The history of residential concrete forming in Metropolitan Toronto and Vicinity is a relatively brief one. Although it is difficult to determine an exact date of its origin, the concept of the 'flying forms' was introduced during the late 1950's.

The phenomenon of the flying form is unique in Metropolitan Toronto and vicinity. Several theories have been advanced for its origination. The Canadian Patent Scaffolding Co. Ltd. developed the flying form as a promotional concept to increase its sales of tubular metal scaffolds used on most types of construction projects.

Orlando Realty Limited was the first company to use a flying form constructed entirely of wood. Thereafter, the Leader and DiLorenzo groups of companies adopted this concept, the DiLorenzo group being mainly responsible for the subsequent popularity of this method of concrete forming.

Coincidental with the emergence of the flying form concept, there was a considerable increase in the demand for highrise apartment buildings in Metropolitan Toronto. The flying form method of concrete forming provided apartment builders with an inexpensive and efficient method by which to construct these buildings and these factors resulted in the extended use of this concept. Furthermore, due to the design of the flying form, the same could carry a greater load than the traditional method of forming, namely all wood construction. The flying form was also more manoeuvrable and required fewer persons to install it.

An additional factor which resulted in the extended use of this concept was the availability in Metropolitan Toronto during the late 1950's and early 1960's of a large influx of immigrant workers who were willing to adapt themselves to working with the flying form system. Until around 1965, construction unions in Metropolitan Toronto made no attempts to organize in the Forming Industry and as a result, the contractors were performing this work on a 'non-union basis' meaning in part that the persons employed in this industry were working under substantially less

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favourable working conditions and rates than their counterparts engaged in concrete forming work on commercial, industrial and institutional construction. Accordingly, the flying form system in the Forming Industry was one that became associated with 'non-union cheap immigrant labour'. As a result, the Forming Industry provided a fertile ground for trade unions to organize.

5 HISTORY OF UNION ORGANIZING IN THE RESIDENTIAL CONCRETE FORMING INDUSTRY IN METROPOLITAN TORONTO AND VICINITY

(i) During 1965, the United Brotherhood of Carpenters and Joiners of America ('Carpenters'), the International Association of Bridge, Structural and Ornamental Iron Workers, Local 721 ('Iron Workers'), the Labourers' International Union of North America, Local 506 ('Labourers' Local 506') (then known as the International Hod Carriers, Building and Common Labourers' Union of America, Local 506) commenced a campaign to organize employees engaged in the Forming Industry.

(ii) On December 17th, 1965, the Iron Workers, Labourers' Local 506 and the Carpenters applied to be certified for their respective craft bargaining units for each of the following employers engaged in the Forming Industry:

Company	United Brotherhood of Carpenters and Joiners of America (O.L.R.B. File No.)	International Hod Carriers Building and Common Labourers of America, Local 506 (O.L.R.B. File No.)	International Association of Bridge, Structural and Ornamental Iron Workers, Local 721 (O.L.R.B. File No.)
DiLorenzo Construction Company	11205-65-R	11212-65-R	11213-65-R
Forming Construction Company	11206-65-R	11209-65-R	11215-65-R

Toronto Forming Company	11207-65-R	11210-65-R	11214-65-R
Dil-Con Construction Company	11208-65-R	11211-65-R	11216-65-R

These applications covered approximately 400 employees. An examiner was appointed in all 12 applications and after lengthy examinations and further hearings before the Board, the applications were all dismissed, some in November, 1966 and others in November, 1967.

(iii) On November 12th, 1969, the Carpenters, Iron Workers and Labourers' Local 506 requested the Board to reconsider its decisions dismissing the said applications for certification. Attached hereto and marked Exhibit 'A' is a copy of a letter dated November 12th, 1969 from counsel to the said Unions addressed to the Board with respect to the request for reconsideration wherein it was alleged, *inter alia*, as follows:

'1. Each of the above named respondents [employers] deliberately and fraudulently presented or caused to be presented to the Ontario Labour Relations Board through the Examiner appointed in these proceedings, evidence which the respondents [employers] knew or ought to have known to be false.

2. The respondents, by means of such conduct, fraudulently intended to deceive and mislead the Board as part of a scheme to improperly and unlawfully prevent the applicants or any of them from becoming the duly certified bargaining agents for the respondents' employees on whose behalf the above mentioned applications were made.'

By letters dated November 27th and December 30th, 1969, attached hereto and marked Exhibits 'B' and 'C' respectively, additional facts in support of the aforementioned allegations were provided to the Board and the parties.

The Board granted the Unions' request for reconsideration as set forth in its decision dated April 8th, 1970, a copy of which is attached hereto and marked Exhibit 'D'.

(iv) In 1968, Bruno Zanini, a self-styled labour leader, Gus Simone, business manager of the Wood, Wire and Metal Lathers' International Union, Local 562 ('Lathers' Local 562') and Charles Irvine, International Vice-

President of the Operative Plasterers' and Cement Masons' International Association of the United States and Canada ('Plasterers' International') commenced a campaign to organize workers in the Forming Industry. On November 4th, 1968, a collective agreement was purportedly made and entered into between Lathers' Local 562 and the Forming Contractors' Association of Metropolitan Toronto ('the Association') by and on behalf of the Association's member companies whose signatures are affixed to the said agreement, a copy of which is attached hereto and marked Exhibit 'E'. This agreement was to be effective from November 4th, 1968 until January 31st, 1974 ('the Local 562 agreement').

(v) Also during early November, 1968, the Council of Concrete-Forming Trade Unions ('the Council') consisting of the following trade unions: International Association of Bridge, Structural and Ornamental Iron Workers, Local 721

Labourers' International Union of North America, Local 506

Operative Plasterers' and Cement Masons' International Association of the United States and Canada, Local 172

United Brotherhood of Carpenters and Joiners of America, Local 1190

was entering into collective agreements with certain concrete forming contractors engaged in Metropolitan Toronto. At this time, Lathers' Local 562 succeeded in entering into more collective agreements than the Council was able to and the Lathers' Local 562 agreements purported to cover employees of most of the contractors who were then engaged in the Forming Industry.

(vi) During either late 1968 or early 1969, Local 183 representatives, in an attempt to achieve and maintain stability in the Forming Industry, had certain discussions with Simone and Zanini with a view of merging the Concrete Forming Division of Lathers' Local 562 with Local 183. In March, 1969, an agreement was reached in principle with respect to the said merger subject to obtaining legal opinions on the feasibility and propriety of such merger. On the basis of a legal opinion, the proposed merger was not proceeded with and as a result, Local 183 decided to engage in its own campaign to organize concrete forming workers and it was to be assisted by Simone and Zanini. Since Lathers' Local 562 incurred various expenses in connection with its campaign to organize the concrete forming workers, Local 183 agreed to reimburse the Lathers' Local 562 for all expenses which had been properly incurred during its campaign. It was further agreed that Zanini would be reimbursed by Local 183 for any wages he did not receive during a particular three month period while engaged in organizing the concrete forming workers for Lathers' Local 562.

A few weeks later, John Stefanini, a representative of Local 183, inquired of Zanini and Simone as to why they had not commenced to organize the concrete forming workers for Local 183 as previously agreed. Stefanini complained further that contrary to the aforementioned arrangements, Zanini and Simone were continuing to organize the workers under Lathers' Local 562. Zanini replied that he required more money to cover certain other expenses which were not mentioned previously and were supposedly incurred during the Lathers' Local 562 organizing campaign. Zanini requested an additional sum of \$25,000.00 to cover these alleged expenses which request was refused.

(vii) On or about May 8th, 1969, Simone, Zanini, representatives of Local 183 and legal counsel met for the purpose of confirming the arrangements in relation to organizing the concrete forming workers under Local 183 as aforesaid. At this meeting, those in attendance were once again advised by Local 183's legal counsel that the proper procedure of attempting to represent the concrete forming workers for collective bargaining purposes was for Local 183 to organize these workers rather than purport to transfer them from Lathers' Local 562 to Local 183 by way of merger, which advice Local 183 accepted. Simone indicated that Lathers' Local 562 would not oppose Local 183's campaign to organize the concrete forming workers nor would his Union attempt to raise the Local 562 agreement as a bar or impediment to the said organizational campaign. It was then left to the respective legal counsel to prepare the final documents to confirm these arrangements. In the meantime, on or about May 9th, 1969, Zanini and Simone met with representatives of the Labourers' International in Washington for the purpose of obtaining additional confirmation of the said arrangements with Local 183.

(viii) Local 183, Zanini and Simone were unable to finalize the arrangements which they had earlier agreed to and in an attempt to clarify and finalize these matters, a meeting was held in Chicago on May 23rd, 1969 attended by representatives of Local 183, Labourers' International, Lathers' International, legal counsel and also in attendance as observers were representatives of certain concrete forming contractors, namely Nick DiLorenzo, John Feracutti and George Orla. The following transpired at the said meeting:

(a) The General President of the Lathers' International acknowledged that the said Union had '... no jurisdiction over persons employed in the concrete forming industry ...' and in any event, this Union was unable to properly represent or service these workers. Attached hereto and marked Exhibit 'F'

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is a copy of a telegram dated May 23rd, 1969 from the said General President to Simone, which in part confirms this acknowledgment.

(b) It was agreed that Local 183 would attempt to organize these persons and that Simone would be employed on a part-time basis for Local 183 as a director and advisor to Local 183's Concrete Forming Division and that Zanini would assist Simone. Attached hereto and marked Exhibit 'G' is a copy of a telegram dated May 23rd, 1969 from the General President of the Labourers' International to Local 183 confirming that 'Business representative Simone of Lathers' Local 562 has been appointed to serve as director of the Concrete Forming Division of Labourers' Local 183. Please be advised that all other representatives in this industry shall serve under his direction and control. Please govern yourself accordingly.'

(c) It was suggested that once Local 183 succeeded in organizing the workers, it would attempt to sign collective agreements with the contractors, which agreements would be similar to the existing alleged collective agreements between Lathers' Local 562 and the said contractors and further, that any new collective agreements would cover Ontario Labour Relations Board Geographic Area No. 8 (Metropolitan Toronto and vicinity).

(ix) On Sunday, June 1st, 1969, a meeting of the concrete forming workers in Metropolitan Toronto was held at the Lansdowne Theatre in Toronto, which had been arranged for by Zanini and Irvine and was attended by approximately 1,000 persons. Although Local 183 representatives attempted to enter the premises and address the meeting, they were not permitted to do so. Irvine strongly urged the workers to establish their own union. Zanini supported Irvine and attempted to persuade the workers that they had been '... sold like cattle in Chicago ...' (referring to the aforementioned meeting in Chicago on May 23rd, 1969) which statement Zanini knew or ought to have known as being completely contrary to what in fact had been agreed upon at the May 23rd, 1969 meeting, namely that Local 183 would attempt to lawfully organize the concrete forming workers so that it would then be legally entitled to represent them for collective bargaining purposes pursuant to the Ontario Labour Relations Act.

(x) Shortly thereafter, Zanini and Irvine organized the Canadian Concrete Forming Union No. 1 ('No. 1').

(xi) During June, 1969, Local 183 became a member of the Council which hired four bilingual representatives to organize the concrete forming workers. Generally speaking, the Council succeeded in its campaign until July, 1969 when Zanini organized a work stoppage of the concrete forming workers in Metropolitan Toronto for the apparent purpose of seeking

enforcement of and amendments to the Local 562 agreement which Zanini intended to transfer to the then recently formed No. 1 at the conclusion of the work stoppage.

Approximately two weeks after the commencement of the work stoppage, a meeting of the concrete forming workers was held at the York Centre Ballroom in Toronto. This meeting was also attended by Zanini and Nick DiLorenzo, the principal owner of one of the then largest concrete forming contractors in Metropolitan Toronto. At this meeting, Zanini and/or DiLorenzo announced that arrangements had been made with the apartment building owners to pay more money to the concrete forming contractors to enable them to grant wage increases to the concrete forming workers and also that certain amendments to the Local 562 agreement were agreed to and that the agreement as amended would now be transferred and assigned to No. 1. As a result, the employees returned to work and although most of them received partial wage increases, the same were not in the amounts as promised to them by Zanini. Furthermore, most if not all of the concrete forming workers were still not being classified and paid pursuant to the Local 562 agreement, amended as aforesaid. In any event, the promises of Zanini and/or DiLorenzo were sufficient to dissuade the workers from supporting the Council's campaign to organize and represent them.

(xii) On or about July 16th, 1969, and immediately after the cessation of the aforementioned work stoppage, a collective agreement was purportedly made and entered into between No. 1 and the Forming Contractors' Association of Metropolitan Toronto on behalf of its member companies whose signatures are affixed thereto ('the No. 1 agreement') which agreement is attached hereto and marked Exhibit 'H'. The No. 1 agreement was to expire on April 30th, 1972 and contained the following preamble:

'WHEREAS the Employers have entered into an agreement with the Wood, Wire and Metal Lathers' International Union, Local 562, Concrete Forming Division (hereinafter called 'Local 562') dated November 4th, 1968;
AND WHEREAS Local 562 has transferred and assigned such agreement and all jurisdiction with respect to the employees covered by such agreement to the Union [Canadian Concrete Forming Union No. 1];
AND WHEREAS it appears that the Union has obtained as members as of the date hereof a majority of the employees referred to in such agreement;
AND WHEREAS either by way of amendment to the said agreement dated the 4th day of November, 1968 or by way of voluntary recognition at this time, the Employers have agreed at the request of the Union to recognize it as

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the present bargaining agent of the employees referred to in the said agreement;

AND WHEREAS the parties have agreed that certain changes should be made in the present arrangements as to rates of pay and certain other working conditions;'

(xiii) During September, 1969, a series of work stoppages occurred on residential apartment building projects in Metropolitan Toronto which was engaged in by employees who were members of unions affiliated with the Toronto Building and Construction Trades Council. These work stoppages lasted for approximately two weeks and were in opposition to Zanini's attempts to discourage the concrete forming workers from being represented by the Council of Concrete-Forming Trade Unions.

(xiv) On September 20th, 1969, an agreement was entered into between the Metropolitan Toronto Apartment Builders' Association and the Toronto Building and Construction Trades Council, a copy of which is attached hereto and marked Exhibit 'I', which agreement was in part responsible for restoring a degree of stability in the residential construction industry in Metropolitan Toronto and vicinity.

(xv) On October 31st, 1969, pursuant to Section 45a (now Section 52) of the Ontario Labour Relations Act, the Council filed with the Board 26 applications to terminate bargaining rights claimed to be held by Lathers' Local 562, No. 1 and the following concrete forming contractors:

<i>O.L.R.B. File No.</i>	<i>Name of Employer affected by Termination Applications</i>
16921-69-R	Toronto Forming (1965) Ltd.
16920-69-R	Toronto Forming (1965) Ltd.
16922-69-R	DiLorenzo Construction Co.
16923-69-R	N. DiLorenzo Construction Co. Ltd.
16924-69-R	Dilcrane Equipment Limited
16925-69-R	Dilcrane Equipment Limited
16926-69-R	Hamilton Forming Limited
16927-69-R	Hamilton Forming Limited
16928-69-R	Dilcon Construction Limited
16929-69-R	Dilcon Construction Limited
(The above companies were controlled mainly by Nick DiLorenzo.)	
16934-69-R	Regis Concrete Forming Limited
16935-69-R	Regis Concrete Forming Limited
16936-69-R	Acu Forming Limited

I6937-69-R	Acu Forming Limited
I6938-69-R	Relli Forms Limited
I6939-69-R	Relli Forms Limited
I6940-69-R	Faga Forms
I6941-69-R	Faga Forms
I6942-69-R	Falcon Structural Forming Limited
I6943-69-R	Falcon Forming
I6944-69-R	Falcon Forming
I6945-69-R	Dimiro Construction
I6946-69-R	Etobicoke Forming
I6947-69-R	Etobicoke Forming
I6948-69-R	Triple F Forming Limited
I6949-69-R	Triple F Forming Limited

These applications were of two different types, namely one group of applications to terminate any bargaining rights arising out of the No. 1 agreement and the other group involved terminating any bargaining rights arising out of the combination of the Local 562 and No. 1 agreements. Attached hereto and marked Exhibits 'J' and 'K' respectively, are examples of each of the said applications.

(xvi) On December 9th, 1969, the Board rendered its decision in connection with the said termination applications, a copy of which decision is attached hereto and marked Exhibit 'L'. Paragraph 7 of the decision provides in part as follows:

'Counsel for Local 562, however, advised the Board at the hearing that *Local 562 was not entitled to and did not in fact represent any of the employees of any of the signatory companies in the bargaining unit covered by the agreement. Counsel accordingly admitted that the agreement was void ab initio and had no binding affect upon the parties to it.*' (emphasis added)

At paragraph 31, the Board stated that:

'The Canadian Concrete Forming Union No. 1 accordingly no longer holds the bargaining rights for any of the employees of the intervener (Toronto Forming (1965) Ltd.), Dilcon Construction Limited, N. DiLorenzo Construction Co. Ltd. Falcon Structural Forming Limited, Acu Forming Limited, Regis Concrete Forming Limited, Etobicoke Forming, Relli Forms Limited, and Triple F Forming Limited.'

While the Council attempted to pursue its allegations of improper conduct

against the other parties, the latter succeeded in avoiding the consequences thereof as they in effect conceded that there were no valid existing collective bargaining relationships between them.

(xvii) On December 12th, 1969, No. 1 applied to the Board to be certified as bargaining agent of the employees of Triple F Forming Limited, a forming contractor engaged in the Metropolitan Toronto area (O.L.R.B. File No. 17092-69-R) which application was signed by Zanini on behalf of No. 1. The Council intervened in this application, a copy of which intervention is attached hereto and marked Exhibit 'M'. The Council challenged the status of No. 1 as a 'trade union' as well as detailing lengthy allegations of improper conduct pertaining to the manner in which No. 1 obtained evidence of membership filed in this application. The Board issued its decision on February 9th, 1972 dismissing No. 1's application on the grounds that it was not a trade union under the Act, a copy of which decision is attached hereto and marked Exhibit 'N'.

(xviii) in March, 1970, Zanini and Irvine formed the Concrete Workers' Union and although they proceeded to sign up workers, this union did not apply for certification nor did it enter into any collective agreements to Local 183's knowledge. Shortly thereafter, Zanini became briefly associated with the Canadian Union of General Employees.

(xix) In April, 1970, Zanini became associated with the Canadian Union of Construction Workers ('C.U.C.W.') which commenced a campaign to organize the concrete forming workers. This campaign resulted in the C.U.C.W. filing with the Board about twelve applications for certification of employees of various contractors in the Forming Industry. The Council intervened in approximately one-half of these applications and after lengthy proceedings before the Board, the C.U.C.W. was certified as bargaining agent in certain of these applications. Notwithstanding that C.U.C.W. was certified as aforesaid, it apparently did not enter into a collective agreement with any of the certified employers.

(xx) About mid-1970, the Council began another campaign to organize the concrete forming workers which resulted in the Council being certified as bargaining agent for employees of approximately eight contractors engaged in the Forming Industry.

(xxi) In November, 1968, the Council entered into collective agreements with seven forming contractors but due to the Forming Industry's instability at that time, the Council encountered much difficulty and opposition in its attempts to enforce these agreements. In 1969, the same seven companies entered into a new collective agreement with the Council, which agreement the Council was unable to enforce due to the existing instability

in the Forming Industry which continued to be plagued with many problems. During 1970 and 1971, the Council had established collective bargaining relationships with the following employers:

<i>Name of Employer</i>	<i>Date Collective Agreement Entered Into</i>
Leader Masonry Forming Ltd.	April 9th, 1970
Direct Forming Ltd.	April 9th, 1970
Randolph Construction Enterprises	April 9th, 1970
M. C. United Masonry Ltd.	April 21st, 1970
Bidoll Construction Ltd.	April 21st, 1970
Bianchini Construction Company	April 21st, 1970
Fran-Kiri Forming Ltd.	April 27th, 1970
Century Forming Ltd.	April 27th, 1970
Associated Forming Contractors Ltd.	May 22nd, 1970
Structform (Central) Ltd.	June 22nd, 1970
Uniform Structures (1969) Limited	July 6th, 1970
Mutamp Investments Ltd.	August 14th, 1970
Skyline Forming Limited	August 14th, 1970
Celamor Forming Company Ltd.	August 20th, 1970
Skyview Forming Limited	October 9th, 1970
Mirmar Forming	October 27th, 1970
A.C.V. Cranes Ltd.	November 1st, 1970
R. C. Building System	July 2nd, 1971
Dove Forming Limited	July 15th, 1971

(xxii) In April, 1971, the Plasterers' International established Local 733 to organize in the Forming Industry and Zanini was placed in charge of this Local by Irvine. Thereafter, Zanini commenced a new campaign to organize the concrete forming workers. At the same time, the Council held meetings of the workers, during which it was revealed that several of the forming contractors under agreement with the Council were not complying with the monetary conditions of the collective agreement.

As a result, Local 183 insisted that the Council increase its efforts to enforce the collective agreements. Local 183 assigned three of its business representatives to ensure that the agreements were being complied with and where necessary, to obtain the necessary information from the concrete forming workers so that Court proceedings could be commenced to recover unpaid wages and other monetary benefits. Local 183 representa-

tives attended at all of the projects covered by Council collective agreements and obtained the required information where contractors were in non-compliance with the agreements. This investigation lasted for approximately three weeks after which it was abundantly clear that most, if not all, of the forming contractors under agreement with the Council, except Structform (Central) Ltd., were failing to pay the workers the wage rates provided for in the collective agreement. Attached hereto and marked Exhibit 'O' is a sample form used during this time to obtain the required information from the workers.

Although the Council was able to settle a small portion of the wage claims, it did not institute any proceedings whatsoever to recover the wage deficiencies on behalf of the majority of the employees affected. Local 183 strenuously objected to the Council's decision not to institute proceedings with respect to the wage deficiencies and this disagreement between the Council and Local 183 ultimately led to the latter withdrawing from the Council on July 30th, 1971. Shortly before Local 183 withdrew from the Council, it began its own campaign to organize the concrete forming workers in the Forming Industry. Accordingly, at this time, there were three organizations competing for bargaining rights for these workers, namely:

- (a) Operative Plasterers' and Cement Masons' International Association of the United States and Canada, Local 733
- (b) Council of Concrete-Forming Trade Unions
- (c) Local 183.

(xxiii) In August, 1971, the concrete forming contractors formed an employers' organization known as the Toronto Form Work Association ('Association') to which most of the contractors in the Forming Industry belonged including the DiLorenzo Group.

(xxiv) During Local 183's organizational campaign, it would attempt to organize a majority of the forming contractors' employees and then request the contractor to grant voluntary recognition to Local 183 so that it would then become the sole and exclusive bargaining agent for the employees, which procedure is evidenced by a letter dated August 4th, 1971 from Local 183 to Zaph Construction Ltd. marked Exhibit 'P' hereto. This procedure is permitted and is indeed encouraged by the provisions of the Ontario Labour Relations Act and in particular, Section 52 thereof.

Local 183 was reluctant to obtain bargaining rights by applying for certification to the Ontario Labour Relations Board as this could entail it being involved in protracted and expensive legal proceedings with the result that the rights of the concrete forming workers to be represented by a trade union of their own choice would once again be delayed.

(xxv) Local 183 satisfied the Association that it was succeeding in its campaign to organize the employees of several concrete forming contractors in the Forming Industry. As a result, during late August, 1971, the Association established a committee to negotiate a collective agreement for those contractors which Local 183 established that it represented a majority of the employees. On September 7th, 1971, Local 183 and the Association agreed upon a form collective agreement to be the basis of the collective bargaining relationships between Local 183 and the forming contractors where Local 183 had established that it represented a majority of the employees. Attached hereto and marked Exhibit 'Q' is a copy of the said agreement. This agreement substantially improved the working conditions of the workers. For example, the hourly rate of pay for each worker has increased, on the average, approximately \$2.00 from that which existed prior to the agreement being entered into.

Thereafter, Local 183 continued its organizational campaign and proceeded to enter into collective bargaining relationships with forming contractors including those who were not members of the Association. To date, Local 183 has succeeded in entering into collective bargaining relationships with the employers whose names appear on Exhibit 'R' attached hereto. With the possible exception of one or two of the smaller companies, each of the collective agreements entered into with the companies named in exhibit 'R' hereto was entered into only after Local 183 satisfied each of the employers that it was entitled to represent a majority of the employees who would be covered by the said collective agreement, pursuant to Section 52 of the Ontario Labour Relations Act.

(xxvi) On October 12th, 1971, Zanini called a meeting of concrete forming workers at the York Centre Ballroom in Toronto. The meeting was attended by approximately 80 persons including Irvine. At the meeting, Zanini informed the workers that Local 733's Charter was being revoked by the Plasterers' International and he therefore recommended that the workers become members of Local 183.

(xxvii) Thereafter, while the Council continued its attempts to organize the forming workers, generally speaking, it was unsuccessful and to Local 183's knowledge, the Council, while still in existence, has no viable collective bargaining relationships.

(xxviii) Local 183 is proud of the results it has achieved in the Forming Industry during the past two and one-half years. The workers have benefited from this effort as follows:

- (a) They have obtained substantial wage increases.
- (b) The workers have received proper union representation in all matters relating to their relationship to their employer.

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- (c) Improved working conditions including better safety protection.
- (d) Continuous enforcement of the collective agreement including processing by Local 183 of grievances against the employers, institution of all necessary proceedings required to recover unpaid wages, vacation pay and other monetary benefits.
- (e) Local 183 continues to organize employees of any non-union contractors thereby enlarging the opportunity of employment for the forming worker.

Furthermore, Local 183's efforts have been responsible to a large degree for the present stability in the Forming Industry which had been previously plagued with innumerable labour relations problems.

6 PROBLEMS RELATING TO THE COLLECTION OF MONETARY BENEFITS FROM FORMING CONTRACTORS

The Forming Industry is certainly not without problems. One of the most aggravating problems encountered by Local 183 relates to the failure of certain forming contractors to pay their employees the full amount of the monetary benefits provided for in governing collective agreements. This problem is detailed in Exhibit 'S' attached hereto.

There are other problems in the Forming Industry which are similar to those which exist in other parts of the construction industry, which problems generally relate to deficiencies in Provincial Legislation, for example, the Ontario Labour Relations Act and the Employment Standards Act. Local 183 would be pleased to elaborate on these problems as well as making certain recommendations thereto at such time as may be convenient to the Commissioner.

Local 183 wishes to express its gratitude for the opportunity of presenting this brief to the Commissioner.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

LABOURERS' INTERNATIONAL UNION OF
NORTH AMERICA, LOCAL 183

Per: (J. Stefanini)
(Michael O'Brien)
(Michael J. Reilly)

January 18th, 1974

Labourers' International Union of North America, Local 183: Proposed Amendments to Labour Legislation

INTRODUCTION

The purpose of the Brief is to analyse some of the problems facing the construction trade unions in the field of labour relations. Since time does not permit us to examine all of the problems in the industry, we intend to examine those which are of particular concern to Labourers' International Union of North America, Local 183 ('Local 183'). Each aspect of this Brief will be discussed both in terms of the problems experienced by Local 183 and then specific recommendations will be made as to the steps that must be taken in order to solve them.

I GRIEVANCE-ARBITRATION PROCEDURES

Section 37 of the Labour Relations Act of Ontario requires that:

'Every collective agreement shall provide for the final and binding settlement by arbitration, without stoppage of work, of all differences between the parties arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether the matter is arbitrable.'

Critical problems have arisen in several aspects of the grievance-arbitration procedure some of which are as follows:

(a) In Ontario, there has been a serious shortage of sufficiently qualified

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arbitrators who are available to hear and determine grievances arising from collective agreements. Further, very few of the currently available arbitrators have had previous experience in labour relations matters with the exception of those arbitrators who are former Chairmen of the Ontario Labour Relations Board. However, even the arbitrators with past experience in labour relations, have had very little, if any, practical experience in dealing with the construction industry which is a clear prerequisite to a full understanding and appreciation of the problems peculiar to this industry. At the present time, most arbitrators are law professors whose obvious lack of such practical experience must, of necessity, result in a less than satisfactory understanding and disposition of the grievances before them.

(b) Another major obstacle to the proper functioning of the grievance-arbitration process is the delays which are presently inherent in the scheduling of hearings or the continuation of hearings by arbitrators. Again, in view of the general paucity of qualified arbitrators, it is not unusual to have a waiting period from the time when the grievance was filed until the first date of hearing of some four to six months.¹ Similar delays have frequently arisen with respect to the releasing of arbitration decisions: in cases involving sole arbitrators, available data indicates that it takes an average of 22.9 days for the arbitrator to prepare and release the Award following the final hearing and, in cases of tripartite Boards, an average of 45.6 days for the majority Award to be prepared and released.² It seems trite to observe that in the construction industry, unlike industrial situations, there is a great fluidity and mobility of work force. This state of affairs seriously prejudices a union bargaining agent in presenting evidence at an arbitration hearing in that the location of the employees is frequently unknown, for example, they may have obtained work in another area. Consequently, the delay in the scheduling of hearings has resulted in resentment on the part of employees affected by a grievance who tend to lose interest in it in view of the lengthy passage of time. In short, the phrase 'justice delayed is justice denied' is clearly applicable to the grievance-arbitration process as it now exists in Ontario.

(c) Further, unions are discouraged from arbitrating grievances because of the excessive costs which are incurred thereby. For example, often when an arbitration hearing is cancelled at the request of the parties within a month prior to the hearing date, an arbitrator may charge a 'cancellation fee' of approximately \$200.00 or \$250.00 if he is otherwise unable to schedule another arbitration to be heard on that date. Clearly, such costs are not incurred in the event of the cancellation of a hearing by either the Labour Relations Board or, for that matter, by the Court. Furthermore, arbitrators frequently charge the parties approximately \$500.00 per day for

each day of hearing notwithstanding that the actual hearing may take a half day or less. In addition, further expenses are borne by the Union with respect to the payment of its nominee to the Board of Arbitration and also for legal fees if counsel has been retained.

(d) At the outset of an arbitration hearing, unions are frequently faced with a multiplicity of technical objections, the purpose and often, effect of which is to secure the dismissal of the grievance without a hearing on its merits. By raising such objections, the employer attempts to frustrate the grievance-arbitration process with the result that the unions and their members are often forced to seek out further and other means of resolving differences that they have with their employer. Examples of such technical objections are as follows:

- (i) the failure of the union or individual grievor, as the case may be, to strictly observe the time limits set forth in the grievance-arbitration procedure;
- (ii) the arbitrability of the grievance and the consequent jurisdiction of the arbitrator to entertain the same;
- (iii) the form of the grievance or, in other words, objections to the sufficiency of the particulars set forth in the grievance and whether the provisions of the collective agreement or of the Labour Relations Act which the union claims have been violated have been specifically pleaded by the union;
- (iv) whether the grievance is a 'policy' grievance, which may be lodged by the trade union itself, or whether it is an 'individual' grievance, which may only be lodged by the employees actually affected by the alleged improper conduct.

(e) The result of the aforementioned technical objections is the dismissal of the union's grievance without a hearing on its merits or at all. This unsatisfactory conclusion results in no small way because of the lack of power in the arbitrator to relieve against 'technical irregularities' by means of a specific provision in the Labour Relations Act to that effect. Clearly, the absence of such authority in the arbitrator tends to lessen the legitimacy of the grievance-arbitration process as a viable and meaningful method of resolving disputes under a collective agreement in accordance with the Labour Relations Act.

Recommendations

1. The Ministry of Labour for Ontario should create a separate Arbitration Commission and engage full-time qualified personnel to serve as arbitrators in order to fulfil the purpose and intent of Section 37 of the Labour

Relations Act. This would effectively reduce the costs of arbitration and for that matter expedite the arbitration process.

II. An arbitration hearing must be scheduled within thirty days of the request by either party for arbitration unless the parties otherwise consent in writing to a longer time period. In arbitrations involving disputes over financial benefits accruing to the employees or to the union, an arbitration hearing must be scheduled within fifteen days from the request for same if desired by the grievor.

III. The arbitration Award should be released no later than fifteen days after the final hearing unless the parties otherwise agree.

IV. The Labour Relations Act ought to be amended to empower arbitrators to relieve against any technical irregularities in the grievance-arbitration procedure, including breaches of time limits, and to waive time limits on such terms and conditions as the arbitrator deems appropriate.

2 CERTIFICATION PROCEDURES

(a) *Percentage requirement for automatic certification*

The result of the 1971 amendment to the Labour Relations Act whereby the required percentage for automatic certification was increased from fifty-five percent to sixty-five percent is that far fewer such applications have resulted in automatic certification by the Board than previously. At its best, the increased percentage was viewed by trade unions as a regressive step in the field of labour relations and one which would simply provide greater encouragement and opportunity for employers to apply unlawful pressure on their employees to compel them to vote against the union. Hence, the purpose of this remedial legislation which is reflected in its Preamble which states that, '... it is in the public interest of the Province of Ontario to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining ...' and Section 3 of the Act which guarantees the freedom '... to join a trade union of [one's] own choice and to participate in its lawful activities ...' has been defeated if not ignored. In seven other Provinces as well as in the Canada Labour Code, a simply majority is the only requirement for automatic certification of a trade union rather than the unrealistic percentage required under the Ontario Act.

(b) Under Section 7(4) of the Act, the Board may certify a trade union as bargaining agent without the necessity of taking a representation vote if the Board is satisfied that more than fifty percent of the employees in the unit

are members of the trade union and that the true wishes of the employees are not likely to be disclosed by such vote. However, the relief afforded by Section 7(4) is largely unavailable because of the excessive requirement upon the union to represent a majority of such employees in circumstances where the employer has previously engaged in improper and unlawful conduct in its attempt to discourage its employees from joining the union.

(c) Local 183 has been continually plagued and frustrated by the filing of 'petitions' in its applications for certification. The practical effect of filing such petitions is to delay the ultimate disposition by the Board of the application in that a hearing must be scheduled to deal with the petition whereas, absent such petition, the Board in construction industry cases usually disposes of these applications without scheduling a hearing. (See, Section 91(13) of the Act). A further effect of the filing of a petition is that it becomes necessary to engage legal counsel in order to represent the union's interests at the hearing in order to cross-examine the witnesses in support of the petition thereby increasing the costs of the certification process to the union. In the vast majority of applications for certification where petitions have been filed, it is apparent that these documents were originated and inspired by the employer and in certain recent cases, it has even been proven that witnesses in support of the petition have perjured themselves in their testimony before the Board. Accordingly, extremely few of these petitions are ever accepted by the Board as voluntary signification by employees of their desire not to be represented by the union and for that reason, the practical result of petitions is simply the occasioning of serious delay and expense to a trade union.

(c) We understand that other construction trade unions have advocated the removal of the 'exceptions' set forth in Section 6(2) of the Labour Relations Act concerning the application of the 'craft principle' in the determination of the appropriate bargaining unit. In particular, there has been a concerted effort to remove the exception which enables the Board to certify a union for a bargaining unit covering a group of employees who exercise '... a combination of technical skills or is required to perform the skills in whole or in part of more than one craft as part of a work crew or team, the other members of which are also required to perform in similar fashion'. Local 183 submits that in view of technological changes and innovations in the construction industry over the last decade, the present legislation properly reflects the performance of work by mixed crews or teams of employees who are not associated in their work with the traditional crafts nor are they, in the main, performing the functions traditionally associated with the craft unions.

The principle behind the exception of Section 6(2) of the Act with reference to the 'crew' concept has assisted Local 183 with respect to its successful organizational campaign for employees engaged in the concrete forming industry at Metropolitan Toronto, which industry has grown up in the last few years as a product of technological innovation. The Board has, indeed, recognized this important development and has given effect to it in the recent case involving *Peniche Construction Forming* (1974) O.L.R.B. Rep. April p. 208.

(d) It has always been a policy of the Board to expedite the processing of applications for certification in the construction industry. During the last few years, however, the construction trade unions have generally experienced certain unreasonable delays in the disposition of these applications. We understand, however, that these and other related matters are presently under review by the Board, and accordingly, we are fully confident that they will be rectified in the near future.

Recommendations

I. We recommend that the minimum percentage requirement for automatic certification of a trade union as bargaining agent be reduced from sixty-five percent to a simple majority in accordance with the prevailing comparable legislation across Canada.

II. We recommend that Section 7(4) of the Act be amended to provide for certification without the necessity of taking a representation vote where the true wishes of the employees are not likely to be disclosed by such vote where the trade union represents at least twenty-five percent of the employees in the bargaining unit.

III. There ought to be no amendment made to Section 6 of the Act at this time dealing with the application of the 'craft principle' in the determination of the appropriate bargaining unit.

3 DISCHARGE OR DISCIPLINE OF EMPLOYEES FOR UNION ACTIVITIES: COMPLAINTS UNDER SECTION 79 OF THE ACT

(a) Available statistics establish that there is an extremely low rate of success by trade unions in Complaints made under Section 79 of the Act involving the discharge or discipline of employees for engaging in union activity. Under Section 79, it is extremely difficult, if not impossible, for the union to succeed since the onus of proof lies on it to establish that the employee was discharged for union activity. Experience has taught that it

is a relatively rare phenomenon for an employer to openly indicate that an employee has been discharged or disciplined by virtue of his union activity. In arbitrations and, for that matter, in actions for wrongful dismissal at Court, the onus lies upon the employer to establish cause for discharge. The result of the reversal of this onus in Section 79 Complaints is that, in the fiscal year 1972-73, of the eighty-one Complaints made under Section 79 of the Act that were heard by the Board, relief was granted in only twenty cases while fifty-eight applications were dismissed and three were withdrawn which indicates a rate of success of twenty-five percent.³

In the Provinces of Quebec, Nova Scotia, Prince Edward Island, Manitoba, Saskatchewan and British Columbia as well as in the Canada Labour Code, the legislation provides that the onus of proof in discharge and discipline cases is on the employer.

Recommendations

The Act should be amended to provide a presumption in favour of an employee that he was discharged or disciplined contrary to the Act and the burden of proof that the employee was discharged or disciplined for cause be upon the employer.

4 TRUSTEESHIP OVER LOCAL UNIONS

(a) Under the Labour Relations Act, there are no limitations placed on the right of a provincial, national or international trade union ('a parent union') to impose trusteeship over a subordinate local union. The sole requirement under the Act is that the parent union must file a statement with the Board within sixty days of the date of the trusteeship which sets out the terms under which the supervision or control is to be exercised (See, Section 73(1) of the Act). Under Section 73(2) of the Act, however, the parent union is required to obtain the consent of the Board in order to continue its trusteeship over the affairs of the subordinate local union for a period longer than twelve months.

(b) Accordingly, it is clear that there exists far too much scope for abuse with respect to the imposition of a trusteeship over a subordinate local union: Plainly, it is possible for the parent union to not only ignore the express provisions of its constitution, but also, it may well deny the subordinate local union natural justice, in assuming control over its affairs and the Board is without jurisdiction to supervise or to check such abuse. Arguably, the local union may seek redress at Court but the inherent costs

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and delay thereby incurred make the availability of such relief more illusory than real. In any event, given the Board's jurisdiction to supervise trusteeships, there appears to be a gap in the Board's powers with respect to the first year of a trusteeship.

Recommendation

The Act should be amended to provide that no provincial, national or international trade union shall place a subordinate local union in trusteeship without the prior consent of the Board.

5 PAYMENT AND COLLECTION OF MONETARY BENEFITS BY EMPLOYEES

(a) Local 183 and no doubt other construction trade unions have been continually plagued by problems involving the failure or refusal of employers to pay to their employees wages and other employee benefits. Quite often, it has become necessary for Local 183 to engage legal counsel to commence proceedings at Court or under Provincial legislation such as the Mechanics' Lien Act or the Public Works Creditors' Payment Act, or federal legislation, such as the Bankruptcy Act of Canada, in order to collect unpaid wages and other employee benefits. An example of Local 183's experience in such matters with respect to concrete forming contractors at Metropolitan Toronto is set forth in Exhibit 'S' to Local 183's previous Brief to the Royal Commission and marked as Exhibit 916.

(b) With respect to the payment and collection of vacation pay to employees, the problem becomes further aggravated in view of the provisions of the Employment Standards Act of Ontario and in particular, Section 28 thereof, which provides, in part, that: '... in any case the employee shall be given his vacation not later than ten months after the end of the twelve month period for which the vacation was given.' Accordingly, the employer has an option of postponing payment of vacation pay for a period of ten months after the year in which the vacation pay was earned.

Some years ago, the Ontario Government abandoned its concept of vacation pay stamps which, while it may have been an administrative problem for the Government, nevertheless guaranteed the payment of employees' vacation pay. In the result, there has simply been no equally effective substitute introduced for the guaranteeing of the payment of vacation pay. Frequently, construction workers discover, after having waited from twelve to twenty-two months, as the case may be, for the

payment of vacation pay due and owing to them, that their employer fails or refuses to pay them and it thus becomes incumbent upon them to take the necessary proceedings to recover these monies. In such cases, the employees frequently have not maintained any, or at least accurate, records of the amounts due to them and this default on their part becomes a serious obstacle in the effective recovery of the amount due them. This problem has been noticeably aggravated with respect to immigrant construction workers who are not familiar with and do not appreciate the intricacies of Ontario law in this regard. The situation cries out for a simpler and more equitable legislation dealing with the recovery of unpaid vacation benefits.

Recommendations

1. Before any contract, exceeding \$5,000.00 in amount, for the construction, alteration, decoration, repair, demolition of any building, structure, road, sewer, water or gas main, pipeline, tunnel, bridge, canal or other works at the site thereof, is awarded to any person, such person shall be required to furnish to the Municipality in the area in which the project is located a Performance Bond with surety or sureties satisfactory to the Municipality, for the protection of all persons supplying labour in the prosecution of the work provided for in the said contract for the use of each such person, as follows:

(a) Where the total amount payable by the terms of the Contract does not exceed \$1,000,000.00, the said payment bond shall be in a sum of 25% of the total amount payable by the terms of the contract.

(b) Where the total amount payable by the terms of the contract exceeds \$1,000,000.00 but does not exceed \$5,000,000.00, the said payment bond shall be in a sum of 20% of the total amount payable by the terms of the contract.

In support of this recommendation, we refer to the Miller Act of the United States, 40 U.S. Code Section 270(a) – 270(e) Act of August 24, 1935, c. 642, 74th Congress, First Session, 49 Statutes 793, as amended, which provides that before any contract is awarded for over \$2,000.00 for the construction, alteration or repair of any public building or public work of the United States, the contractor must execute a payment bond with a surety or sureties to protect the wages of all persons supplying labour.

We respectfully submit that construction workers in projects other than Government projects are entitled to similar security with respect to their employment benefits. Such performance bonds should continue in existence for the duration of the project and for a period of 37 days thereafter.

As an additional protection, the prime contractors should not be permitted to obtain building construction permits unless and until they are able to supply the municipality with the requisite proof that the aforementioned performance bond or bonds, as the case may be, have been furnished to the municipality.

II. Employers who fail to adequately provide for payment of construction workers' employment benefits should be subject to punishment by fine and/or imprisonment. Such legislation would certainly act as a deterrent to those employers who take unfair advantage of the construction worker. In the United States, there is provision in the Anti-Kickback Law and Cope-land Act (Act of June 25th, 1948, 18 U.S.C. 874; Act of June 13, 1934, as amended, 40 U.S.C. 276(c); Reorganization Plan No. 14 of 1950, (15 F.R. 3176, 64 Stat. 1267) provides that a person is punishable by a fine up to \$5,000.00 or by imprisonment up to five years or both, for anyone by force, intimidation, threat of procuring dismissal from employment or by any other manner whatsoever, to induce an employee on work covered by the law to give up any part of the compensation to which he has a right under his contract of employment. Such legislation could be made to apply and to provide for fines and/or imprisonment, in any case where a person by force, intimidation or threat of procuring dismissal from employment or by any other manner whatsoever, induces, permits, or causes any person employed in the construction, alteration, decoration, repair or demolition of buildings, structures, roads, water or gas mains, pipelines, tunnels, bridges, canals or other works at the site thereof to give up any part of the compensation to which he is entitled under his contract of employment or to work for anything less than which he is entitled under his said contract of employment.

III. With respect to vacation pay, the Employment Standards Act of Ontario should be amended to provide that vacation pay be made payable twice annually or alternatively, vacation-with-pay stamps should be introduced.

6 SUPERVISION OF EMPLOYEE BENEFIT PLANS

From time to time, the trade unions in this Province have experienced grave misgivings and dissatisfaction with respect to the supervision and control over trusted employee benefit plans. More particularly, there has been a felt need for the availability of an independent audit of an employer's

books and records in order to ascertain whether such employer has faithfully remitted the benefits due to its employees under these plans.

Recommendation

(a) All employee benefit plans in the Province must be joint trustee so that the employer and the trade union be represented fully and adequately with respect to the supervision and control over trust monies.

(b) Provision should be made in the legislation for the right of employees or their bargaining agent to request an independent audit of any employer's books and records to ascertain whether the full and proper amounts of monies are being duly remitted to the plan and further, that the employer's books and records are true and accurate in all respects. The plan itself should bear the expenses for such an audit, but in the event that an employer has been found guilty of misconduct, the full expenses of the audit should be borne by it. It seems trite to observe that the introduction of such provisions to the legislation may act as a useful deterrent to any employer that may seek to avoid its obligations in this regard.

All of which is respectfully submitted.

LABOURERS' INTERNATIONAL UNION OF
NORTH AMERICA, LOCAL 183:

Per: (J. Stefanini)

August 9th, 1974.

NOTES

- 1 *Justice Delayed ... The Arbitration Process In Ontario* by the Labour Council of Metropolitan Toronto at pp. 5-9.
- 2 *Supra*, at pp. 8-10.
- 3 Annual Report by the Ontario Department of Labour re Proceedings before the Ontario Labour Relations Board, for fiscal year 1972-73 see p. 27-28.
See also *Submission of the Ontario Federation of Labour, Committee on the Labour Relations Act and Procedures of the O.L.R.B.* February, 1974, Appendix VI at p. 17.
- 4 *Supra*, Appendix V at p. 16; and Part V of the *Canada Labour Code*, Section 188(3).

Building & Construction Unions: Causes of Change

CRAFT UNIONS

Construction & Building Trade Unions are primarily Craft Unions. Craft Unions as commonly understood, 'consist of workers who have undergone an apprentice training and whose acquired skills enable them to carry through to completion on a particular process, usually requiring manual dexterity with tools. A Craft Union crosses industry lines since industries producing entirely different commodities or services include some processes or occupations which are similar.'¹

Most, if not all, Craft Unions in the building industry are multi-crafts. The Bricklayer, Mason and Plasterer; the Painters, Decorators and Paperhangers of America are good examples. Others, although singular in craft by name, are in fact representing more than one craft. The Sheet Metal Union, for instance, also represents, in many areas, the roofers. In the building construction industry there are 18 Craft Unions.

Craft Unions in North America are the oldest established Unions.² They survived the test of time, an odyssey for which they deserve the full credit. Looking back in history, as far back as the nineteenth century, we have ample examples of their ordeals. They had to overcome strong employer opposition, economic panics and depressions, anti-labor and punitive legislations, as well as the almost complete alienations, misunderstandings and antagonisms of the courts and restrictive injunctions.³

The price paid for their progress was a heavy one. Union members had to shed their blood and were subject to untold sacrifices. Sometimes their only strength was their courage, their determination and their faith that

their cause was a just one. Other unions of a more idealistic and industrial basis faded away like snow in the April sun. The Knights of Labor⁴ and The Industrial Workers of The World⁵, or Wobblies, were union organizations which belong in this category.

There are many factors which contributed to the birth, survival and growth of Craft Unions. The most important one is their pragmatic approach to problems affecting their own members and the craft itself. More specifically, the defense of the craft, its welfare and honor and the regulation of the same. Concepts which are part of the heritage of the Guilds. With regard to their regulation, the Craft Unions established a long and elaborate apprenticeship system. This in turn generated pride of craftsmanship and its resultant cohesion. Craft Unions are in essence 'job conscious' unions.

The large immigration waves did not affect Craft Unions as vitally as it did so many others. Faced with a hostile environment, Craft Unions built walls of protection around themselves. The advent of the machine culture, however, turned that defense into their biggest obstacle.

In the twenties, despite a booming economy and a large increase of industrial workers, the American Federation of Labor (A.F.L.) was unable to make any real progress. The A.F.L. was comprised mostly of Craft Unions. Technicological changes had the following impact on the crafts:

1. Modification and replacement of skills.
2. Increased interdependence of skills.
3. Doing away with a skill altogether.

In the labor force the semi-skilled or unskilled workers became the majority – no longer the cry in the wilderness but a large group demanding social justice and unions. The New Deal promoted correction of social evil through unionism.

Craft Unions, tied by their own principle and traditions, were unable to cope with these new problems. Rome was burning and the A.F.L. was fiddling. Finally, there was a showdown in 1935 between the old guard of the Craft Unions vs. the more perceptive trade unionists.⁶ John L. Lewis and his miners were primarily responsible for the birth and growth of a new kind of unionism, the Committee of Industrial Organization.⁷

Building and construction unions were not touched by these schisms or new unionists. Partially because machines and technocological changes were not introduced in such large scale in the industry to seriously affect the modification, replacement or elimination of the skills. It would appear, however, that this picture is gradually changing. It would also appear that the rhythm is accelerating.

Let us describe now these changes in the construction and building

industry, analyze some of them and later try to evaluate their impact on construction unions.

CHANGES IN THE CONSTRUCTION INDUSTRY

A complete and accurate description of all the changes in the construction industry in the last decade would require lengthy, voluminous and highly technical explanations. We will deal, therefore, with some of these changes in general terms.

During the past few years the construction industry was the subject of rapid technocological changes. There is every indication that these changes will continue with an accelerated speed. They will have an untold impact in the industry and also on the structure of the construction and building unions. It would appear that the majority of construction innovations originated in the residential sector (housing and high-rise apartments) and were gradually transplanted in the traditional commercial sector.

Management's dissatisfaction with traditional products, some antiquated, which often required specially trained craftsmen for its installation introduced a gradual injection of contemporary materials into construction projects. To different degrees it touched almost all aspects of construction techniques.

Synthetics, connected with dry fittings and epoxy glues, replaced the traditional 'wet system' of plumbing installation. The 'wet wall' plastering system is gradually being substituted with 'dry wall' systems.

Simultaneous to the injection of synthetic materials was the barrage of mass produced prefabricated items available. The shops of the mechanical contractor began to produce complete plumbing trees, prefabricated vent and waste sections. Factories mass produced completely finished kitchen cabinets, complete stair assemblies, 'door-packs' complete with precut, prehung and preassembled jambs, casings, stops and door with hardware; 'window-packs' complete with precut, prehung and preassembled frame, hanging style, casing, stool, apron and sash with hardware; and so on.

The mass production did not stop there. The success with the component led, through natural evolution, to the mass production of complete prefabricated walls and floor sections. Prefab mass production also includes such items as total kitchens, complete with cabinets, plumbing fixtures, electrical fixtures, floor tile and utilities; bathroom sets, complete with bathtubs, toilet closet, washbasin, electrical fixtures, ceramic and resilient tile. And then the ultimate – the mass produced shop-built, prefabricated total building.

The house building in particular is gradually being changed from the concept of 'building' to the one of 'assembling.' That is: putting together factory prefabricated components. The bricklaying trade, already substituted in commercial building by precast walls, is now being replaced by units of prefabricated brick walls. This component is being contracted in factories on a mass production basis.

The house basement, once built by brick, is now done by poured concrete. An operation which requires a lower skill and is far superior in speed. Computers are now being used in house building and especially in truss specifications. Trusses are used for the frame of the house. They are put together in factories. Computers speed up truss design and engineering, eliminate the margin for human errors, encourage new designs, greater flexibility and results in lower cost. The installation of truss components is being done by a crew consisting of a carpenter who acts as a foreman and a number of men, usually 6 or 7, who are semi-skilled or trained only for that operation.

Having exposed in general terms some of the most important changes in building techniques we shall now deal with one of them: the concrete forming industry in the highrise apartment construction in Toronto. We shall, in a more detailed description, analyze the impact which technological changes in concrete forming techniques caused to building unions in the Toronto area.

CONCRETE FORMING

The concrete forming sector, a singular method of framing, also known as superstructure, is the shell of a high-rise building.⁸ From an architectural and engineering point of view, it is the most important aspect of a building. Its cost is one of the major financial items of a project. But, perhaps even more important, is the impact that the superstructure has on the scheduling of production of a building. By being the first structure to be constructed the concrete forming, therefore, can be called a key sector.

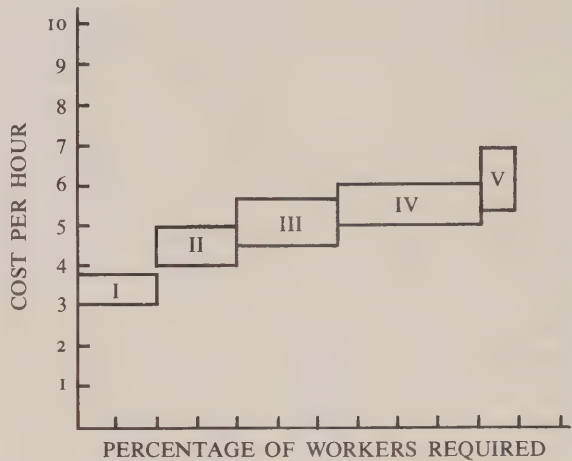
Before major changes were made to its system, the following was the pattern established, from the labor aspect, to build high-rise towers: the *carpenter, alone*, handled each of the hundred components comprising a formwork structure and assembled and disassembled each of the hundred components for each individual pour. The *ironworkers, alone*, handled, placed and tied each individual piece of reinforcing steel. The *cement mason, alone*, handled, placed and finished each shovelful of concrete. A specialist erected the tower crane and a hoisting engineer specialist oper-

ated it during construction. The laborer was relegated to common tasks of housekeeping and helper. Fig. I below reflects the then existing labor situation. The groups also represent the skill that was required. It is obvious from Fig. I that the major cost to a builder was on the higher groups: eg. carpenters.

Fig. I

Each block represents the various rates paid to each group and their respective classification within.

- I Laborer
- II Cement Mason
- III Ironworker
- IV Carpenter
- V Housing Eng.



Another important factor was the labor supply. Due to the lack of qualified tradesmen required and the tight apprenticeship system⁹, it was fairly inelastic at that time. We know from basic economics that an inelastic curve will produce sooner or later a reduction or elimination of that particular demand or supply.

In Toronto various factors forced a change in the old superstructure system. By coincidence, all of these factors took place more or less at the same time (toward the end of the 50's).

1. A higher demand for apartment suites. The mass influx of population coupled with a diminishing supply of land made high-rise apartments a highly profitable business.

2. The restrictive municipal building by-laws. The Toronto municipal government introduced building regulations forcing builders to leave a certain percentage of 'green space' around the building. The result was higher buildings.

3. The inadequacies of the other systems. The block system permitted construction only to a limited number of stories in height. The structural steel was too expensive. The precast was not fully developed as yet.

4. The lack of qualified tradesmen required under the old system.

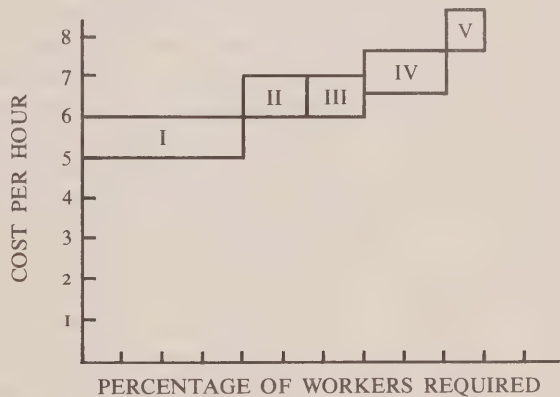
5. The large number of immigrants arriving in Toronto.¹⁰ Most of them were not permitted to join the established local unions either because their skill of the old country was not suitable in the Canadian setting or because of the stringent apprenticeship system.

6. Supply companies promoted new systems to attract demands to their products. The Canadian Patent Scaffold Company on licence from a German engineer initiated in Toronto the 'flying form' concept. The Company purpose was to promote the use of tubular metallic scaffold materials rather than the lumber forms.

The 'flying forms' system greatly reduced the need and number of qualified tradesmen. The main part of installation and operation is more concentrated at the semi-skilled base. In terms of economics, Fig. II below helps us to see the differences compared to the old system in Fig. I.

Fig. II

- I Laborer
- II Cement Finisher
- III Rod Placer
- IV Form Setter
- V Crane Operator



We can notice immediately the lower percentage of skilled workers and the increased number of unskilled or semi-skilled workers required. The function of each group was also changed. Thus, the laborers became semi-skilled and the level of skill of the other trades was lowered. The carpenter, for instance, under the new system can be properly called a form setter. Another important factor is that the 'flying form' system requires team work. This is one of the keys of its existence.

The nature of the work performed by the employees may be described as follows:

1. The employees are engaged in all phases of concrete forming work for which they undergo on-the-job training.
2. The employees work as a crew under common supervision and perform an inter-related series of functions.

3. The employees work along side of each other as part of a cohesive work crew or team.

4. The employees possess varying degrees of technical skills rather than any of them possessing skills different from one another.

5. There is no group of employees who, by reason of skills of crafts, are distinguishable from the other employees.

Workers, therefore, are not divided along the rigid lines of craft jurisdiction. By necessity most of them perform a number of operations. The skills are not only inter-related but also overlapping. The laborer is not relegated to menial housekeeping tasks but is an important worker in the overall operation. New hourly rates were established to reflect skill realities. A new kind of construction worker was born: the concrete forming worker.

The new system became a success for two main reasons: the substantial saving and the high level of productivity and speed. Since its inception more than 100 high-rise apartment buildings are blooming in the Toronto skyline at any one time. Toronto is one of the fastest growing metropolises in the world with an unparalleled construction volume.

During the 60's construction unions made many attempts to organize the residential sector. This sector became just as large and important as the traditional commercial, institutional and industrial one. It was then that the unions decided to go out of the walls of their ancient citadel and to organize under 'B locals'. Residential builders were becoming increasingly active in the traditional commercial sector.

The unions launched many organizing drives with all the strength and efforts they could muster. Their attempts, however, failed. A number of reasons contributed to their failure:

1. Strong employer opposition. Employer opposition was twofold: (a) anti-unionism concept and (b) fear that the Craft Unions would destroy the new system.

2. Loopholes in the Labor Relation laws. Until recently an employer was able to play much easier the so-called 'number game'.¹¹ Thus offsetting the majority claimed by each union which is required for certification purposes.

3. Continuing disagreements and distrusts among unions despite the fact that five building union locals formed a legal Council.¹² Sometimes there was more concern as to how to divide the pie even before it was baked.

4. Dual unionism. Another International Union with no relation to the concrete forming industry attempted and almost succeeded in organizing the concrete forming workers. Later there was an independent union¹³ created for this purpose.

Large amounts of money were spent. Many union organizers worked hard for a long period of time but to no avail. The industry was plagued by many labor unrests, strikes, walkouts, etc. Finally in 1971 our local union¹⁴ decided to do something about it. We broke away from the Council and became engaged in a three-way fight; that is, against the Council and a local of another international union. We succeeded in less than one year to organize the concrete forming workers. Our policy was to organize on a quasi-industrial unit representing all concrete forming workers with the exception of the crane operators. A degree of order and stability has been finally achieved in the industry. Wages have almost doubled during the last three years.

It is interesting to note that our local, before organizing the residential workers, was representing mainly construction miners. Organizers who were former miners with no previous experience or connection with the concrete forming industry were the ones to win the day. There is a very close parallel to the A.F.L. and C.I.O. situation of 1935.

Will this new multi-skilled bargaining unit concept survive and prosper? Although it may be considered a singular situation in North America, it is, nevertheless, important because Toronto is a large city with a big potential.

A positive result has already been achieved. In 1970 four major builders, perhaps fearing eventual unionizations, set up a factory in Toronto to prefabricate concrete units for high-rise apartments. These building techniques would eliminate the concrete forming system altogether. They invested large amounts of capital and brought to Canada expertise from England¹⁵ to direct the operation.

Our local union organized the factory. I visited the premises where the men were working. I was impressed in a negative way by the working conditions. Although it was a modern plant and efforts were made to install the best equipment, I thought that the worker on a construction site was much better off. However, the most important factor, in my opinion, was the degree of human dignity. In the factory a worker is subjected to the monotonous routine of assembly-line work, a process which almost dehumanized the individual. Construction workers on sites enjoy a much greater freedom and a greater variety of tasks. Construction workers are proud people. They prefer the risk of the elements of nature and being in the open space rather than being closed within four walls and performing menial and repetitious tasks.

The prefabricated method could not compete against the new concrete forming. Our local union carefully preserved in the industry the flexibility necessary for acceptable productivity. Contrary to other unions, we

adopted a concept 'to suit the industry rather than the industry to suit the union'. Two years later the factory was closed. The prefab concept had employed fewer men than the site concrete pouring method; yet, despite this it didn't succeed. The main reason is speed.¹⁶

In order to have a better appreciation of the labor flexibility factor and its impact on building costs, we shall make a comparison of the concrete forming prices between Toronto and Miami. In Toronto the present rate for high-rise concrete structures is approximately \$.60–\$.63 a contact square foot for supplying the formwork, including the supply of crane and performance of cement rubbing; \$4.50 per square yard for placing and finishing concrete; and approximately \$60.00 per ton for the placement of rebar.

In Miami the total cost for providing the formwork is approximately \$1.30 to \$1.40 per contact square foot; the cost of placement and finishing of concrete is approximately \$8.00–\$10.00 per square yard; and the cost of rebar is approximately \$90.00–\$110.00 per ton.

As we can see, the cost for performing the same jobs in Miami, which is under much better weather conditions, is twice those in Toronto. Wages in Miami and in Toronto are approximately the same. The difference, therefore, is solely due to inefficiencies caused by multi-subcontractors performing inefficient procedures on the job site. This is partly caused by the fact that each job involves a different type of skill.

EVALUATION OF FUTURE TRENDS

The construction industry is undergoing an ever increasing process of changes. In the past these changes were of a horizontal nature with little impact over established lines of the Craft Unions. It would appear that now this trend is changing. At present new techniques are of a vertical nature; that is, requiring a construction worker to perform a number of operations which may be of different skills.

The skills needed are not as onerous as in the past. A lengthy apprenticeship system is no longer necessary. Less formal training on-the-job programs are gradually replacing the apprenticeship system. Teamwork is also important. The new construction workers possess varying degrees of technical skills rather than any one of them possessing skills different from one another. They perform an interrelated series of functions and are part of a cohesive work crew or team with common supervision.

Before elaborating on this point any further, it would be interesting to analyze what causes these changes in the building and construction industry. We can describe a number of them:

1. The supply curve of building land available. The less land available the higher the price will be. Builders, therefore, will be forced to build houses or apartments using the most economical method.

2. Cost of materials. Certain types of construction materials are at a time more economical (or expensive) than others. (The present cost of lumber is a classical example.) This in turn would cause the use of different materials or the use of the same material under other methods. Either may change the requirement of skills necessary for the installation of it.

3. The availability of material. This point could be closely related to point No. 2. However, not all the time is the factor of availability of materials related only to cost. A builder may be willing to pay the cost but he may not find the material available, thus inducing him to find other alternatives.

4. The ingenuity of architects and engineers. Technocological changes are often introduced by professionals who may like to experiment with new systems because they are more efficient and economical or just because of their professional inclination.

5. The fierce competition among contractors who, in order to compete, devise new methods of more productive natures.

6. The ingenuity of suppliers and/or manufacturers. In many instances a manufacturer or supplier in order to promote their products may introduce a new material or system which can seriously affect the established craft lines.

7. The availability of skilled craftsmen. If a contractor finds it difficult to recruit his necessary number of skilled tradesmen, he may devise a system where he may not need highly skilled tradesmen or reduce the number of them.

8. Cost of labor. This factor varies greatly from sector to sector and from trade to trade in the construction industry. It all depends on the percentage of labor cost in the total volume of the construction cost.¹⁷ However, we can safely say that the higher the labor cost of a trade and the number of men required of that trade, the stronger the motivation would be for an employer to find other alternatives.

9. The economic situation of the country or region. This factor is highly complex in many respects. For instance, we can ask ourselves the following questions: How much is the buyer willing to pay? What are his earnings? Is the monetary and/or fiscal policy stimulating or contracting construction? Etc.

10. The population growth of the country or region or locality.

Some of the above factors are more important than the others. In a

region there might be a combination of all or part of them at any one time. There is an equation, however, which we can describe as follows: The higher the number and the stronger the degree of these factors, the faster the changes will be introduced into construction.¹⁸

Any or all of the above factors may influence not only the building system but also the volume of construction. Construction is becoming a dynamic industry. It is an important part of the economy of a country. In Canada it is the industry which directly or indirectly is employing the largest number of Canadians.

Construction unions are confronted with serious and complex challenges. These challenges are in the area of new responsibilities, bargaining, organizing, retraining, legislative and, for some of them, survival. Their refusal to recognize them is to bury their head in the sand. Their attempt to solve them by old policies is to decline acceptance of reality.

Having mentioned some of the areas of challenges facing construction unions, we shall examine them in more detail.

RESPONSIBILITIES

Most of the construction unions are too narrow in scope. They are as close as they can be to 'business unions'. The broader and more liberal concept of 'community unionism' must be adopted. Their responsibilities do not end at the bargaining table. They should promote the concept of cheaper housing not only for the benefit of the community as a whole but also for their own members. What is the use of increasing the hourly rate if such an increase will still be marginal to the greater increase of the cost of housing? Government subsidized housing is not the answer. Government has a clear responsibility to reduce or eliminate the windfall profit in land speculation, materials and builders' profits. Monetary and fiscal policies are also important, but surely unions should serve as examples in promoting new systems or at least not opposing new systems to increase productivity, which will make housing within reach of the working people.

The argument that increased productivity will reduce jobs is a fallacy. It may very well result in fewer jobs on a project but the more projects built the higher the number of jobs available.¹⁹

Bargaining

The old concept that each union must negotiate by itself has no place in a modern and stable building industry. It is creating economic and political

pressure of high magnitude. The 'leap frogging' is a clear example. A union leader is almost forced to go for a higher settlement to those negotiated previously by other trades. Strikes are often a chain reaction. When members of a Craft Union settle their dispute they may be out of work just because other members of another Craft Union went out on strike, and so on.

Extended regional bargaining on a craft basis is not the answer. Many employers, government officials and international union representatives genuinely have fallen into this detrimental belief. In the long run it will only enlarge the problem from an area to a region. It would further implant this detrimental bargaining process in deeper roots and it will be more difficult to extradicate it.

The answer lies in multi-trade bargaining. If a dispute will be solved, it will be solved not only for the members of a Craft Union but also for all workers within a sector. The success of multi-trade bargaining, however, depends on a few conditions. The geographical area should reflect uniform economic realities and mores.²⁰ Another important condition is to limit multi-trade bargaining to sectors. Thus a strike in the heavy construction industry sector will not involve workers in the commercial or residential building sectors and visa versa. Sectors, however, may have different geographical boundaries. One sector may have a greater geographical boundary than another.

Other objectives in bargaining should also be explored, such as more security of employment and guaranteed earnings.²¹ The lack of them has plagued the construction worker and drove unions to take militant stands and demand higher wages.

Organizing

There is a growing trend of non-union work being built especially in the residential sector. An exception is in those areas where unions adapted themselves to the realities of the industry. The success of unionization of the concrete forming industry in the residential sector in Toronto should be a clear indication to responsible unions. The 'cut' in the hourly rate for residential work done by many unions is not the answer. First, it is a hypocrisy. Sooner or later the rate will be raised to the commercial one because members will demand the higher rate. Second, it is discriminatory because it creates two classes of union members. The solution is rather to accept the degree of flexibility in the operation that an employer is used to or established. This in turn will reduce employer opposition to unions.

Retraining

Due to the changing nature of the construction industry, new skills are created and older ones are made obsolete. Full employment also requires a construction worker to possess a dexterity of different skills. Only by these qualifications can he be slotted to whatever job opportunities are available and be employed for as long as possible. Unions have a clear responsibility to promote retraining programs in cooperation with employers and government agencies. Some unions are already fulfilling this obligation.²²

Legislative

This objective is more in the province of the Government and Labor Boards. The exclusive bargaining units established in the construction industry are too narrow and out-of-date with the present situation. The Ontario Government has taken a step in the right direction with the revision of Sect. 6(2) of the Ontario Labor Relation Act dealing with Craft Unions. The revision allows the Board to use its discretion in describing bargaining units in the construction industry '... where the group of employees is exercising a combination of technical skills or is required to perform the skills *in whole or in part* of more than one craft as part of a work crew or team, the other members of which are also required to perform in similar fashion.' (emphasis added)

On April 4, 1974, the Ontario Labor Relation Board, using the above statutory right, certified our local for 'all construction employees ... engaged in concrete forming on residential building projects.'²³

A more complete study should be made by governments regarding bargaining units in the construction industry having due regard to unions and employers' presentations.

CONCLUSION

At this point it would be in order to ask what kind of union reconstruction should be done. How many and what unions should exist? It is a difficult question to give a satisfactory answer. As Mr. Bluestone, Vice President of the U.A.W., said to Senator Kennedy, 'I must say I do not think I have answers. I have some questions and some ideas that perhaps might provoke further discussions.'²⁴

The most rational approach would be for construction unions to discuss their problems and have a new organizational structure. We all know that it will never happen. There are too many empires to protect and too many

personalities which will interfere. One big union for the construction workers also would be unrealistic. It may not be able to reflect the aspirations of all its members. The answer may lie in a gradual reduction of the number of construction unions. This may come either by elimination and/or by a merger process.

The elimination process is twofold. New techniques in the industry may remove the necessity of certain skills. Thus unions representing those crafts may die a natural death.²⁵ More aggressive unions may seize upon new opportunities and slowly reduce the sphere of influence by the more passive unions to a point where it will be difficult for them to survive.

The surviving unions may not necessarily be the big ones. Some of them are structured so rigidly that it is difficult for them to adjust to new environments. Centralization of policies sometimes curtails the initiative of area officers who are more unaware of new situations to exploit. Many battles were lost in wars because 'the man at the top' directed the operations from far away denying the front officers the opportunity to capitalize on openings.

Merger of unions will also contribute to stability. Weaker unions may see merger as their only salvation. Other unions may see in merger a consolidation of their craft because the new organization will have a broader basis. The unions which will have a better chance to prosper are the more responsible, vibrant, broader thinking and those unions which are not afraid of changes.

Whatever changes may or may not occur in the construction unions, there is one aspect of great importance which must be kept in consideration at all times: the construction workers and what's good for them. Without this guiding principle, changes may be meaningless or even detrimental.

After all, we cannot lose sight of the fact that it is the statutory right of employees to freely designate their representatives and organizations of their own choosing. Any narrow, technical and pedantic system which obstructs the principle of mass employment in an industrial development will inevitably be changed.

John Stefanini

Laborers International Union of North America-Local 183

NOTES

1 New York University. Sixth Annual Conference on Labor (New York, N.Y.), p. 407

2 The Bricklayer, Mason and Plasterer International Union of North America was founded

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- on October 17, 1865 and the International Brotherhood of Carpenters and Joiners of America was founded in August, 1881.
- 3 The anticombination provisions of the Sherman Act enacted on July 2, 1890 were applied to unions until 1932 at which time they were repealed by the Norris-La Guardia Act. Another anti-labor legal document was the infamous Yellow Dog Contract which was only outlawed by the Wagner Act in 1935.
 - 4 The Knights of Labor were established in 1873 in Philadelphia and vanished around 1894.
 - 5 The Industrial Workers of The World was founded in Chicago in 1905. This organization faded away with the first World War.
 - 6 As originally constituted the new Committee for Industrial Union was formed by John L. Lewis of the United Mine Workers of America, Charles P. Howard of the Typographical Union, Sidney Hillman of the Amalgamated Clothing Workers, David Dubinsky of the International Ladies Garment Workers, Mark Zaritsky of the United Hatter, Thomas F. McMahon of the United Textile Workers, Thomas H. Brown of the Mine, Mill and Smelter Workers and Harvey C. Fremming of the Oil Field, Gas Well and Refining Workers.
 - 7 The C.I.O. was founded in Atlantic City on November 9, 1935. Now it is known as The Congress of Industrial Organization.
 - 8 There are 4 basic ways to build the shell of a building: (1) by blocks, (2) by structural steel, (3) by precast and (4) by reinforced concrete forming.
 - 9 Until not long ago in Ontario the law required that a beginning apprentice had to be 21 years or younger with formal education requirements which were considered fairly high.
 - 10 Between 1950 and 1960 there were 1,648,753 people who immigrated to Canada, 259,871 were Italians. Most of them settled in Toronto.
 - 11 If an employer owned two companies, then he could have switched employees from the payroll of one of his companies to the other one, thus offsetting the original number of employees of that Company for which the union had applied for certification. (Under Ontario laws, the day that a union applies for certification is the one on which the Government officials take the count of the numbers of employees vs. union members.)
 - 12 The Council of Concrete Forming Trades Union. Under Ontario law, Unions can form a Council which can be certified as the bargaining agent just as a singular union. (Ontario Labor Relation Act, Art. 9)
 - 13 The Canadian Concrete Forming Union, Local 1.
 - 14 The Laborers International Union of North America, Local 183
 - 15 The system chosen by the builders was the so-called 'English system'. In Britain 53% of all high-rises are built by the prefab technique.
 - 16 Speed may be more important than cost. For example, let us accept the fact that concrete forming is a more expensive method of building than the prefab one but if it will take a considerably less time to build the shell of a high-rise tower the builder will actually save money in the long run.
 - 17 It may very well be that a tradesman is highly paid, but because of his relative number his cost is tolerated by the employer. An example can be found in the crane operator. A building may have only one or two crane operators.
 - 18 Thus, if we consider NF as Number Factor and DF as the Degree of Change for Each Factor, we have $(NF + DF = TCC)$ where TCC represents Total Changes in Construction.
 - 19 Let us suppose that due to a new system there will be 20% fewer jobs on a project but

- because it is more economical to build and higher profits are realized (the only motivation for a builder) twice as many projects will be built, then the number of jobs will actually be increased by 60%.
- 20 It would be foolish, for example, to lump together Northern Ontario with Central Ontario because of the wide diversities of unionization, custom, relationship and economic realities.
 - 21 The S.A.S.M.I. plan (Stabilization Agreement of The Sheet Metal Industry) established by the Sheet Metal Union is an example.
 - 22 While attending the T.U.P. at Harvard Business School, I had the opportunity to visit the Laborers' Training Academy at Hopkinton, Mass. I was impressed by its modern facilities.
 - 23 Ontario Labor Relation Board, File No. 4450-73-R.
 - 24 Testimony of Irving Bluestone, July 26, 1972 - U.S. Senate Subcommittee on Labor.
 - 25 But they can raise a lot of Hell in the death process, eg. jurisdiction strikes, etc.

APPENDIX C

Marble Masons, Tile Layers, Terrazzo Workers Union No. 31

I INTRODUCTION

The Marble Masons, Tile Layers, and Terrazzo Workers Union, No. 31 ('Local 31') welcomes the invitation of the Commissioner to present this brief to the Royal Commission on Certain Sectors of the Building Industry ('the Royal Commission'). This brief is submitted to the Royal Commission with a view to setting out in some detail both the historical development of Local 31 and its bargaining experience in the marble, tile and terrazzo industry in Metropolitan Toronto and vicinity. Thereafter, the brief is directed to certain more generalized problems that construction trade unions have encountered in the industry and which we believe deserve the attention and concern of the Royal Commission.

2 HISTORY OF LOCAL 31

During the 1920's, the tile setters and terrazzo mechanics were members of the Bricklayers', Masons' and Plasterers' International Union of America ('the Bricklayers' International'), Local 2 thereof. However, during the Depression, most of these tradesmen left Local 2 because of the lack of work at that time. In 1931, Local 31 was granted a Charter by the Bricklayers' International Union with jurisdiction over marble setters; thereafter, in approximately 1944, the said tile setters and terrazzo mechanics became members of Local 31. Since that time, Local 31 has represented marble masons, tile setters and terrazzo mechanics in Ontario.

In the 1940's, there were approximately three contractors who were engaged at Toronto and vicinity in the said marble, tile and terrazzo business. From that time until the present date, Local 31 has continued to organize the industry, so that at the present time, there are approximately 17 contractors under agreement with Local 31. It is noteworthy that the three original contractors did a considerable amount of marble, tile and terrazzo work in the residential industry in the 1940's but over the ensuing years confined their activities to the commercial sector.

By the early 1960's, while Local 31 had some 300 members, there were approximately 115 contractors in the residential marble, tile and terrazzo field. However, most of these contractors were, in essence, one-man firms or alternatively, partnerships of two to four persons, all of whom worked directly at the trade.

At or about that time, there were a number of important technological innovations which, in general terms, are well documented in Goldenberg and Crispo's, *Construction Labour Relations* at pp. 649, et sequitur. In Local 31's view, its members' productivity greatly improved by reason of the introduction of these new methods and materials. For example, whereas previously a considerable amount of time was taken with respect to the preparation of walls before tile could be applied to them, the introduction of adhesives and pre-grouted large sheets of tile vastly cut down the amount of time and skills required.

On the other hand, Local 31's experience is that, more recently, in many large buildings, there has been limited, if any, use of marble, tile or terrazzo. In fact, where its members previously laid marble and terrazzo floors, at the present time carpeting or other substitutes are installed directly over the concrete. Accordingly, on a typical small project, there may be two washrooms in which tiling is installed at all. Overall, its members often account for only 2% of the total value of work in any construction project.

Against this setting, particularly in the residential sector of the industry, the difficulties inherent in organizing may be easily seen. Moreover, these difficulties are compounded since unorganized persons in the residential sector work on a piece-work basis: for example, they might be paid \$10.00 or less per washroom with respect to the installation of tile, and needless to say, without restriction on the number of hours worked. In fact, this is still the primary method of payment in the residential sector although the men involved often try to correlate their piece-work rate into an hourly rate of wages.

Simply put, the existence and practice of the piece-work payment is the

major stumbling block to successfully organizing these persons in the residential sector: the younger men work quickly and in view of the monetary rewards on a piece-work basis, the Union has no attraction to them. On the other hand, the older workers find that they cannot work as quickly and accordingly, feel the necessity for the Union. On the whole then, on the basis of numbers alone, there is little chance for successful organization of them.

By 1961, of all the major construction trade unions, Local 31 was the only union which did not set up a separate residential local. It believed then, as it believes now, that it was for the common benefit of all its members to bargain commonly under one local union. However, Local 31's difficulties in organizing the residential field are partially explained by its unwillingness to have a separate residential local which would have resulted in lower wages and other employment benefits as compared to the higher rates which were generally paid in the commercial field. In fact, Local 31's efforts in the early 1960s to organize the residential sector were thwarted by the combination of the above-mentioned conditions: the entrenchment of the piece-work system together with the negative effects of technological innovation upon the trade which drastically reduced its manpower requirements. Moreover, once a contractor was organized by Local 31, it was often forced to leave the residential field as it simply could not compete against the unorganized contractors which paid their employees on the piece-work basis. Similarly, in 1964, Local 31 set up a lower hourly rate of pay for contractors with which it bargained collectively in order to enable them to work in the residential field. However, this arrangement proved unsuccessful because, as before, these contractors were simply unable to compete notwithstanding the lower rate of pay.

COLLECTIVE BARGAINING HISTORY

As a starting point in appreciating the collective bargaining patterns in the marble, tile and terrazzo segment of the construction industry, one must have regard for the different employers' associations that are in existence.

The Terrazzo, Tile & Marble Association of Canada is a national trade association, which deals, in the main, with specification writing, industry promotion on a national basis, standards, and assisting other professionals in the field, such as architects and the like. This Association is not a bargaining agent for or on behalf of any employers and accordingly, has never entered into collective agreements or otherwise with Local 31 or any other trade union.

Secondly, there is the Toronto & District Marble, Tile & Terrazzo Contractors' Association ('the Toronto & District Association') which was formed in approximately 1957. Prior to the formation of this Association, Local 31 bargained collectively with each contractor on an individual basis. The members of this Association have from time to time included the large marble, tile and terrazzo contractors engaged at Toronto and vicinity such as Brooks Marble & Tile Co. Ltd., Connolly Marble, Mosaic and Tile Co. Ltd., National Terrazzo & Marble Co. Ltd., Terrazzo, Mosaic and Tile Co. Ltd., York Marble, Tile and Terrazzo Ltd., De Spirit Marble, Tile and Terrazzo Company and Rosemount Marble Tile and Terrazzo Company.

Thirdly, the Terrazzo, Tile & Marble Guild of Ontario, while in existence for several years, has never been active. By virtue of the 1971 amendment to The Labour Relations Act of Ontario, whereby it was provided that an employers' organization might be accredited by the Ontario Labour Relations Board as bargaining agent for its member contractors, this Association was revitalized as an appropriate body for the co-ordination of collective bargaining for marble, tile and terrazzo employers on a Provincial basis.

In view of the accreditation provisions of The Labour Relations Act that require employers' organizations which have applied for accreditation to accept into membership any contractors, membership in the Guild is open to all contractors in this sector of the industry. While the member contractors of the Toronto & District Association are also members of the said Guild, the following large Toronto contractors which are members of the Guild are not members of the Toronto and District Association: Gem-Campbell Terrazzo Tile, Maple Terrazzo Marble and Tile Ltd., Mercury Terrazzo Co. Ltd. and Omega Vatri Consolidated Marble Ltd.

In this regard, Local 31 wishes to emphasize that it does not now, nor has it ever, restricted its collective bargaining relationships to members of the said Toronto & District Association: the Local's primary purpose and, in effect, its reason for being, is to organize the entire field irrespective of whether a contractor is a member of any organization. For example, with respect to the four above-named contractors, Local 31 entered into collective agreements with them separately and apart from its collective agreement with the Toronto & District Association but used the said Toronto & District Association's agreement as the format for the collective agreements with them.

Furthermore, in addition to the four independent contractors already mentioned, Local 31 has had long-standing relationships with the following contractors who are neither members of the Toronto & District Associa-

tion nor the Guild: Desco of Ontario, Granwood Flooring Ltd., Everlast Terrazzo and Tile Co., Bertoss Terrazzo and Tile Co. Ltd., Capital Tile, Citti Tile, Permanent Protective Coatings Ltd., Heffernan Floor and Wall Products Ltd., Granolite Co. Ltd., and Mardel Contracting. Local 31 wishes to make it clear that these latter firms as well as the four previously mentioned ones are all engaged in the commercial field at Toronto.

Since 1972, the Ontario Provincial Council of the Bricklayers', Masons', Plasterers' International Union, has negotiated with the said Guild for members of Local 31 as well as 'helpers' on a provincial basis. In the Toronto area, however, Local 56 of the International Association of Marble, Slate & Stone Polishers, Rubbers and Sawyers, Tile Marble Setters, Helpers and Marble Mosaic & Terrazzo Workers Helpers, ('Local 56') negotiates directly with the Toronto & District Association. The said provincial Collective Agreement is attached as a schedule to any memorandum of agreement negotiated between the Council and any contractors who are not members of the Guild. In other words, the terms and conditions of employment are the same as between Guild members and non-Guild members: Local 31 in its effort to improve the status of its membership at large views a uniformity of collective bargaining in the best interests of its membership for reasons of stability of collective bargaining.

During Mr. DeMonte's testimony before the Commission, some reference was made to the then Article I(h) of the Collective Agreement between Local 31 and the Toronto & District Association which stated, in part as follows:

'It is agreed that the joint trade committee shall be three representatives from each party and this committee shall have the power to set up apprenticeship arrangements, also *to screen new contractors*, and to hear violations of Agreement and deal with same... (emphasis added).'

As Mr. DeMonte stated under oath before the Commission, Local 31's position is that it could bargain with any contractor in the industry whether the contractor was a member or not of this or any other Association and regardless of any provision for a 'Joint Trade Committee' in the Association's Collective Agreement. In a word, this clause was never in any manner implemented to Local 31's knowledge, nor did it at any time form the basis for any alleged restriction on any contractor's access to the commercial marble, tile and terrazzo field in Toronto.

Certain evidence was adduced before the Commission by Mr. Da Re with respect to Local 31's alleged conspiracy to prevent new contractors

from entering the commercial field at Toronto. There are no facts before the Commission to support this serious allegation against Local 31 nor for that matter would any such attempts have been to the benefit of Local 31. On the other hand, Local 31 points out that the very collective agreement which was prepared by the solicitor for the Metro Marble, Tile & Terrazzo Association for signature by Local 31 contained a number of clauses by which the Association sought to restrict the supply of tradesmen to contractors who were not members of that Association (see, *inter alia*, Article XIV of the said Collective Agreement). Local 31 signed that Agreement in an attempt to organize and, accordingly, stabilize the residential sector and believed that such Agreement represented a fair starting point. On the other hand, Local 31 specifically denies that it had any intention of limiting its organizational activities in the residential field by virtue of the said Collective Agreement or for that matter, to restrict the right of entry of other contractors to that field.

As stated by several witnesses at the Royal Commission's hearings, Local 31 simply could not compete with the Canadian Union of Construction Workers when it commenced its organizational activities in the residential field and thereafter, made various applications for certification for members of the Metro Marble, Tile & Terrazzo Association. The collective agreement which had been signed between Local 31 and that Association was executed at a time when Local 31 did not represent the majority of the employees of these companies and accordingly, Local 31 was unable to discharge the onus upon it of proving that this Agreement was a 'collective agreement' within the meaning of The Labour Relations Act.

On the other hand, the Canadian Union of Construction Workers promised the residential employees a substantial increase in wages and other employment benefits and Local 31, for its part, simply could not compete on the basis of 'bidding' based on such promises. While the Canadian Union of Construction Workers succeeded in certifying the various contractors, it apparently never entered into collective agreements with them and to date has accomplished literally nothing on behalf of these persons. At the present time, Local 31 is recommencing its efforts to organize these persons in order to be entitled to legally represent them.

RECENT ORGANIZATIONAL DEVELOPMENTS OF LOCAL 31

During the latter part of 1970, Local 31 was approached by several tradesmen engaged in the plastering industry at Metropolitan Toronto and vicin-

ity. In particular, these persons were dissatisfied with the nature and quality of their representation by The Operative Plasterers' & Cement Masons' International Association of the United States and Canada, Local 117, ('Local 117') and desired Local 31 to represent them. Accordingly, special arrangements were made by Local 31 for the organization of these persons who were employed by approximately twelve large plastering firms in this area. Once the required numbers of persons were organized by Local 31, applications for certification with respect to these companies were made to the Ontario Labour Relations Board. In these applications, Local 31 requested that a pre-hearing vote be conducted amongst the employees of the contractors and that accordingly, Local 31 be certified as bargaining agent for them in the place of Local 117.

The Board held a series of pre-hearing representation votes in these applications and in view of the fact that a majority of the votes cast by the employees of each of these companies was in favour of Local 31, the Board certified it as bargaining agent for these contracting plasterers in the Metropolitan Toronto area (see Schedule 'A' attached hereto).

In the result, Local 31's membership has greatly increased with the addition of these plasterers to its membership rolls so that it now has approximately 650 members, including some 420 plastering tradesmen.

MANPOWER PROBLEMS IN MARBLE, TILE & TERRAZZO INDUSTRY

As pointed out, *supra*, the availability of work in the marble, tile and terrazzo industry has dramatically declined in recent years. Accordingly, it has become increasingly difficult to attract tradesmen into this sector of the construction industry and Local 31's experience in this regard is similar to that of all of the trowel trades.

The approximate membership in Ontario of the Bricklayers' International Union is approximately 5000 journeymen and 120 apprentices. Generally, marble, tile and terrazzo mechanics are promoted from the ranks of helpers and, with the exception of the Metropolitan Toronto area where helpers are members of Local 56, these helpers are members of the various locals of the said Bricklayers' International Union. However, the average age of the membership in the Bricklayers' International Union is 40 years old.

For many years, the Bricklayers' International Union had requested the Provincial Government to recognise marble, tile and terrazzo as a separate trade for apprenticeship training purposes. Finally, in 1970, the Appren-

ticeship Branch of the Department of Labour, established an Advisory Committee for this purpose. Accordingly, under the present Provincial training scheme, a member learns all aspects of the marble, tile and terrazzo trade. On the other hand, the existing membership is unwilling to accept changes: for example, marble setters only wish to set marble and do not wish to perform work in connection with tile or terrazzo. These persons have been influenced in large measure by the North American emphasis on specialization and productivity and for that reason are unwilling to become 'generalists' within the demands of the trowel trades. On the other hand, it should be pointed out that many of the marble, tile and terrazzo employers retain up to seventy per cent of their employees on their permanent payroll. Experience has also taught that when work is not available, these tradesmen would rather stay at home than have their names placed on the Union's referral list. In some large measure, this is derived from the Italian concept of 'loyalty to the boss'. On one particular occasion when there was a shortage of names on Local 31's referral list, Local 31 had considerable difficulty in encouraging workmen, who had been laid off by their employers, to accept alternative employment even on a temporary basis. This problem was overcome by arranging for the primary employer to 'lend' these workers to the contractor who was in need of them.

As stated, Local 31 maintains and operates a form of 'hiring hall' with respect to its unemployed members. In other words, as members become unemployed, their names are placed at the bottom of the Union's referral list and they are thereafter referred to jobs in accordance with their position on the list which in turn directly relates to the length of time they have been unemployed. Local 31 maintains this system strictly and does not send 'better' or 'more qualified' personnel to more 'favoured' employers than others. All of the members are entitled to work and are dispatched to jobs, as stated, depending on their position on the referral list.

WAGE PROTECTION

Generally, a major concern of Local 31's, as well as other construction trade unions, is with respect to the proper and sufficient payment of wages and other employment benefits to its members from contractors who have encountered financial difficulties. Local 31's experience in this regard stems from problems encountered under The Mechanics' Lien Act of Ontario as well as The Bankruptcy Act of Canada. A key problem is the accepted usage of multiple names and corporate shells by contractors in order to ensure difficulties in collecting the employment benefits.

Generally-speaking, the underlying roots of the problem are as follows: firstly, the under-capitalization of contractors; secondly, the unwillingness of contractors to file mechanics' liens; thirdly, the tactics used by builders and developers to have their projects built at the lowest possible price and so far as possible, to delay payment to subcontractors for services rendered.

With respect to the first problem, Local 31's experience is that any person can enter the construction industry as a trades contractor by simply calling himself one. It is a relatively simple matter for these persons to thereafter lease equipment and hire the required number of tradesmen. While in the commercial sector, some protection is afforded in that, the standard form of contract requires the contractor to post a bond, there is no such requirement for bonding in the residential field. A crucial recommendation that Local 31 respectfully makes to the Royal Commission is for the universal bonding of all contractors in the construction industry, including the residential sector thereof. This one proposal, if accepted, would go a great length in alleviating the problems in the industry.

The problem with respect to mechanics' liens is that it is the unwritten law of the industry that if a lien is filed, future work will not be awarded to such subcontractor. The practical result is that in a number of situations Local 31's tradesmen have not been paid their wages.

One of the tactics deployed by certain builders and developers which has created substantial instability in the industry is the practice of calling for tenders on a proposed project to be used only for obtaining mortgage funds. After the low bidder has been named, the builder typically 'hunts around' for alternative subcontractors to do the work more cheaply. Hence, the requirement for an ethical and for that matter, supervised, bid depository system governing all construction projects, including those in the residential sector. The clear benefit of such bid depository system would be to impart greater economic stability to the residential sector where it is urgently needed.

CONCLUSION

Local 31 sincerely trusts that this Brief may clarify the history and for that matter, some of the problems inherent in the marble, tile and terrazzo sector of the construction industry and that the Commissioner will give due consideration to its submissions.

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ALL OF WHICH IS RESPECTFULLY SUBMITTED
MARBLE MASONS, TILE LAYERS, TERRAZZO
WORKERS UNION, NO. 31

PER:

Danny De Monte

March 26, 1974

SCHEDULE 'A'

<i>Name of Contractor</i>	<i>O.L.R.B. File No.</i>	<i>Date of Certification</i>	<i>No. of Ballots Cast for Local 31 Out of Total No. of Ballots Cast</i>
1 Kingsway Plastering Co. Ltd.	3036-72-R	26 January 1973	7/11
2 Sirox Plastering Co. Ltd.	3060-72-R	19 March 1973	8/9
3 Lido Plastering Co. Ltd.	3068-72-R	19 March 1973	4/4
4 Marel Contractors	3080-72-R	5 April 1973	16/19
5 Spring Plastering Co. Ltd.	3084-72-R	19 March 1973	23/27
6 Glenbow Construction Ltd.	3096-72-R	19 March 1973	21/27
7 Roselawn Plasterers Co. Ltd.	3126-72-R	5 April 1973	47/51
8 Gold Star Plastering Co. Ltd.	3163-72-R	5 April 1973	13/14
9 Edere Plastering & Construction Limited	3183-72-R	5 April 1973	19/23
10 Reliable Plastering Co. Ltd.	3205-72-R	5 April 1973	14/18
11 Suburban Plastering Co. Ltd.	3206-72-R	5 April 1973	4/5
12 Rogers Plastering Contractors Limited	3612-73-R	23 May 1973	14/15

APPENDIX D

Submission by: John Meiorin,

SECRETARY-TREASURER: Bricklayers', Masons' Independent Union of Canada, Local 1, and PRESIDENT: Canadian Union of Construction Workers

INTRODUCTION

This brief is a joint submission by the Bricklayers', Masons' Independent Union of Canada, Local 1 and by the Canadian Union of Construction Workers. The former union is composed of bricklayers and masons whereas the latter embraces other construction trades. Local 1 has approximately 1,500 active members whereas, the C.U.C.W., at present, does not have an active membership. The reasons for this will be clarified later.

The difficulties of the industry in general and these two unions in particular can best be examined from an historical perspective. I shall endeavour to set this out chronologically.

LOCAL 35:

During the post-World War II building boom in Toronto and the corresponding influx of immigration, there was only one bricklaying local of the Bricklayers', Masons' & Plasterers' International Union of America (hereinafter called the 'B.M.P.I.U.') in the Toronto area. Local 2, which was then headed by the late William Genovese, had a collective bargaining relationship, through the Toronto Construction and Building Trades Council, with the members of the Toronto Builders' Exchange (now called the Toronto Construction Association).

Local 2 was not interested in organizing the unorganized residential and commercial sectors of the industry. Its activities were restricted to what is known as 'downtown' construction.

In September or October of 1955, organizational meetings of bricklayers, under the leadership of Bruno Zanini, commenced being held at Brandon Hall. Zanini had received a charter from the B.M.P.I.U. in Washington for Local 35. According to the charter, Local 35 could organize every job not then organized by Local 2, that is, every contractor who was not a member of the Toronto Builders' Exchange.

Toward the end of the winter of 1957, Local 35 entered into an agreement with a group of contractors in the residential sector for a wage rate of \$2.50 per hour. The agreement lasted for about one month as Local 2 and 35 were ordered to merge by Tom Murphy, the then Secretary-Treasurer and present General President of the B.M.P.I.U. With the merger of Local 35 into Local 2, Zanini became an organizer for Local 2 where he remained until 1959 when he resigned to try to form the Canadian Association of Bricklayers.

LOCAL 40:

Starting in the spring of 1957, work became generally scarce in all construction sectors. Men drifted away from the union and accepted work with non-union contractors. As well, many new employers were starting-up. Competition was very keen. Instead of getting wage increases, men were being asked to take cuts so that their employers could remain in business.

There was a feeling that all trades in the residential field had to be organized. In the spring of 1960, 5 trades received local charter from their internationals in Washington. The B.M.P.I.U. gave Zanini a charter for Local 40. As stated above, Zanini had previously left Local 2 in an attempt to re-organize the residential sector independently. Zanini remained as president of Local 40 until late 1961 or early 1962 when he was replaced by Marino Toppan.

In August 1960, after a 3 week strike, Local 40 entered into an agreement with a group of residential contractors which provided for a series of wage rate increases. By the spring of 1961, only a few of the large firms were paying the agreed wage of \$3.05 an hour. Most employers resorted to wage-cutting.

A bitter strike of 7 weeks' duration was called in May, 1961 by the Brandon Hall group of unions. It resulted in the signing of a memorandum of understanding, but the 1960 experience of wage-cutting was repeated again due to the fact that not all of the residential sector was organized.

In the spring of 1962, when the agreement was up for renewal, the contractors must be organized. Their argument, for the most part, was not

based on anti-union feelings but, neither for economic reasons. They felt that there had to be some stability in the industry. About the same time, I was elected business agent for Local 40.

On January 24, 1963, after a series of meeting with Leonard Eden of the Masonry Contractors' Association, the Department of Labour was jointly approached to establish a schedule under *The Industrial Standards Act*. A conference was held on May 6, 1963 in accordance with the provisions of that Act and, in mid-August, a schedule was published. The schedule established minimum wages and conditions for the industry and, as a result, relations between labour and management improved.

LOCAL 1:

Contemporaneously, relations between Local 2 and 40 were not smooth. The availability of work for members of Local 2 was being reduced by the introduction of concrete forming and pre-cast concrete. Local 2 was particularly concerned with the industrial and commercial work being performed by Local 40 contractors who were spreading out from the residential field.

Local 40 members might be working beside other trades which were non-union or, in some instances, the bricklayers would be the only trade on the site. It was hoped to use Local 40 as a means of getting the unorganized contractors to sign agreements with the Building Trades Council.

At a meeting of representatives of both Locals called by Sam Sasso, the then international representative of the B.M.P.I.U. on December 8, 1964, at the King Edward Hotel, Local 2 asked Local 40 to respect Building Trades Council picket lines. Local 2 stated that once the builder had signed with the Council, all his future jobs would be staffed by members of Local 2. This would have meant the gradual elimination of Local 40 and its members.

The events of this meeting were reported to the Local 40 membership on January 5, 1965. The members were upset and many wished to form their own union. Immediately following the Local 40 meeting, a consensual meeting was held and the Bricklayers', Masons' Independent Union of Canada, Local 1 came into being. All the members of Local 40 joined Local 1.

For the time, we operated as both Local 40 and as Local 1. Local 40 had received a number of 'no board' reports – that is cases where the Minister of Labour decided not to appoint a conciliation board under *The Labour Relations Act*, thus hastening the date when a lawful strike could take

place. After a one day strike, the contractor would frequently sign an agreement and the picket line, legally, would have to be removed. The Building Trades Council called Local 40 'selfish' for removing pickets as it had hoped to use Local 40 as a means for organizing the other trades. Local 40 then resigned from the Council.

Local 40 then became a shell. Occasionally, an ultimatum would be received from the B.M.P.I.U. that the Local was in arrears of its per capita dues and, if they were not paid, the charter would be revoked. This was never done.

As agreements came up for renewal, they were signed in the name of Local 1. Our jobs were harassed by the Building Trades Council. On some jobs, the other trades were pulled off while, on others, pickets paraded from time to time. This harassment has continued over the years.

The Council placed pickets for one week on a 400 unit apartment project in the Bathurst and Sheppard area which was being built by Jack Binder. All the trades were pulled off. Clive Ballentine who was there for the Council said they were trying to organize the concrete formers but Mr. Binder told me that they were after the bricklayers.

The same experience was repeated a few days later on a project on Jane Street between Wilson and Sheppard. This was a complex of five buildings. The pickets were carrying signs which stated, 'No Union Employees On This Project'. Signs simply had a question mark on them.

In 1967, while sitting in an O.L.R.B. witness room where we were both testifying in a case, I spoke to Alex Main, the business manager of the Building Trades Council of our desire to join the Council. He said that membership was open only to locals of internationals. As a result, we have not made a formal application to join.

LOCAL 1 AND THE O.L.R.B.

Local 1 made its first application for certification on November 28, 1972 for employees of Guglielmi Brothers Bricklaying, O.L.R.B. File No. 2926-72-R. As this was our first appearance before the Board, we had to lead evidence on the union's formation back in 1965. In the first paragraph of its decision of December 21, 1972, the Board found that Local 1 had the status of a trade union within the meaning of *The Labour Relations Act*. Local 1 was subsequently certified for employees of Metrus Contracting Limited on June 13, 1973, O.L.R.B. File No. 3716-73-R and for employees of Barbieri Brothers Masonry Contractors on February 7, 1973, O.L.R.B. File No. 3115-72-R.

THE CANADIAN UNION OF CONSTRUCTION WORKERS:

In the late 1960's, labour relations in the residential sector were generally the same as they were a decade earlier. With the exception of the bricklayers, the field was largely unorganized. There was a considerable amount of picketing and rivalry.

On December 8, 1968, the Canadian Union of Construction Workers came into being. It was our hope to organize all trades. It was felt that there was an immediate need to aid the tile workers. Concurrently, we offered to help Bruno Zanini who had established the Canadian Concrete Forming Union No. 1, but Zanini decided that he wanted to be independent.

In April 1970, Zanini did join the staff of the C.U.C.W. after his own union had failed. He and his people stayed until January, 1971 when they left to become Local 733 of the Operative Plasterers. The departure was caused by two reasons. First, Local 1 had been financing the organizational efforts of the concrete formers. Second, there had been friction due to personality differences within Zanini's group of supporters.

The O.L.R.B. recognized the legal status of the C.U.C.W. as a trade union when it certified the C.U.C.W. as bargaining agent for carpenters employed by MANOR Carpenters, O.L.R.B. File No. 15467-68-R. The C.U.C.W. is affiliated with the Confederation of Canadian Unions, a national federation of independent unions.

THE TILE AND TERRAZZO FIELD:

As mentioned above, it was felt that the C.U.C.W. should concentrate its initial efforts among the tile, marble and terrazzo workers. Most of the workers in this area of the residential sector have traditionally been paid on a piece work basis. Because only a few men with the requisite skills are needed on a subdivision, the employers could not give them direct supervision and, accordingly, placed them under their own control. It was primarily the older worker who could not keep up with the pace of the younger men who desired organization. Generally, the men told us that they would join the union when we could get them more than they were earning on a piece work basis.

We commenced organizing toward the end of 1969. On December 17, 1969, we filed an application for certification for Sterling Tile Company, the largest employer in the field and on January 28, 1970, we filed applications for an additional employers. At the time, only a few men were aware of an agreement between Local 31 and the residential tile contractors' associa-

tion. Local 31 had made no effort to sign men up. Indeed, it was not until the O.L.R.B. hearing in the Sterling Tile application on January 6, 1970.

Between April 10, 1970 and June 2, 1970, the O.L.R.B. certified the C.U.C.W. for employees of Sterling Tile Company, Bloor Terrazzo Tile & Marble Ltd., Continental Terrazzo Marble Company Ltd., Lancia Tile Company, Mercury Tile & Terrazzo Ltd., Moscone Tile Company Ltd., New Way Terrazzo Ltd., S.M. Tile Company, and Tony Santarossa Tile Company.

As soon as certification was received, notices to commence bargaining were sent out but only two companies replied. A meeting was held in July, 1970 but only four of the employers sent representatives. The employers were concerned about the collective agreement between the Building Trades Council and the Metropolitan Toronto Apartment Builders Association which would have prevented them from doing work on high rise projects if they signed agreements with the C.U.C.W.

Accordingly, on September 15, 1970, the C.U.C.W. filed an application for a declaration terminating the bargaining rights of the Building Trades Council, O.L.R.B. File No. 18378-70-R. A hearing on the merits is still pending. I will have more to say on this point below.

In March of 1971, we endeavoured to have a second meeting with the contractors. This time, none of them showed up. It was felt that until the O.L.R.B. disposes of our application to terminate the bargaining rights of the Building Trades Council there was little we could do because there are so few tile workers on any given project.

GENERAL PROBLEM AREAS:

Both Local 1 and the Canadian Union of Construction Workers would like to take this opportunity to outline some of the difficulties we face. If these problems can be solved, and for some we do not have any possible solutions, conditions in the construction industry would be very much improved.

I THE ONTARIO LABOUR RELATIONS BOARD:

The major concern of both unions is the treatment we receive when appearing before the O.L.R.B. When no other union is involved in a case, we find that we are treated quite fairly. However, when one of the international unions is involved, our experience is very different.

Basically, the international unions use the power of their larger member-

ships to hurt the smaller unions. By use of adjournments and other procedural tactics, they have made proceedings before the Board very legal and very complex. This is contrary to the initial conception of the Board which was seen as a relatively informal tribunal. To illustrate our concerns in this area, we are attaching, as an appendix, a copy of a brief which was submitted to the Minister of Labour, the Honourable Fernand Guindon, in February of 1972. The brief touches upon the experiences of the C.U.C.W. before the Board in a number of cases involving the organizing of concrete forming contractors. For the sake of brevity, the details of these cases were not set out in the body of this brief.

The root of the problem goes to the very composition of the Board. Mr. Ed Boyer, the labour representative on the construction panel of the Board, is a former secretary of the Provincial Council of the United Brotherhood of Carpenters and Joiners of America. In our view, there is a very real question of bias when we have to face an international union in a given case.

We also question the right of Mr. Alex Main, business manager of the Toronto Building Trades Council, to sit as a member of the Board. In 1969, Mr. Main led the Building Trades Council which used unlawful picketing and other tactics in an attempt to put both Local 1 and Zanini's Canadian Concrete Forming Union No. 1 out of existence. Charges were laid against him yet he sits on the Board and plays an important role in its policy-making process. In his other capacity, he will not allow independent unions to join the Council. His very presence on the Board creates very real difficulties for unions such as ours and other non-affiliates of the internationals.

At the least, we feel that there ought to be representation from the independent unions on the membership of the Board. This would give us some representation at the policy level and some protection at the decision-making level.

2 THE INDUSTRIAL STANDARDS ACT:

In the main body of the brief, we stated that, in 1963, a schedule was established under *The Industrial Standards Act* to set certain uniform, minimum wages and conditions in bricklaying and masonry. The establishment of these 'floors', which are enforced by the Government, helped eliminate the cut-throat competition and helped give the industry some semblance of stability.

Unfortunately, the Schedule has not been amended since 1968. The minimum wage in the schedule is \$5.50 per hour whereas Local 1's current

negotiated rate is \$7.45. If the gap between the two rates continues to grow, we, in the residential field, could find ourselves back in pre-1963 circumstances where collective agreements were meaningless and wage-cutting was common. If the gap continues to grow, developers will be tempted to award work to non-organized contractors and the organized contractors would probably endeavour to breach their agreements in order to stay in business.

In February, 1973, Mr. Donald Hushion, Executive Director, Employment Services of the Ministry of Labour convened a meeting of all parties covered by the Act. He informed us that the Ministry would like to abolish the system of industrial standards. The response was that the system was vitally important at least in the construction industry.

In our submission, *The Industrial Standards Act* gives much-needed stability to the residential sector of the construction industry. The Schedules should be kept up-to-date and should be vigorously enforced to ensure that tradesmen are fairly treated. The removal of the Schedules or even the failure to amend them to meet the needs of the times could have the effect of returning our sector of the industry to chaotic conditions.

3. WAGE PROTECTION:

Local 1, like all other unions, faces serious problems in collection unpaid wages and benefits particularly when a contractor has financial problems. From our experience, *The Mechanics' Liens Act* and the *Federal Bankruptcy Act* is not an appropriate vehicle for the collection of wages. Unfortunately, the proceedings can be very complex and drawn-out to the detriment of the unpaid worker.

With respect to bankruptcies, it is only too common for a bankrupt contractor to re-appear the next day under the name of a new company and even to assume the work of his pre-existing firm. As long as there is not full employment in the industry, he can always attract labour. In our submission, the federal *Bankruptcy Act* should provide for associated employers in a like manner to section 1(4) of *The Labour Relations Act* and the bankruptcy authorities should be able to look beyond the 'Corporate veil' to ensure that tradesmen get properly paid.

Furthermore, in the heavy and industrial sectors of the construction industry, it is a common requirement that contractors obtain performance bonds. This is not so in the residential sector. We feel that such bonds should be made mandatory but we admit that we cannot suggest the appropriate mechanics for implementing this suggestion.

CONCLUSION:

Our major concern is the attempts by the A.F.L.-C.I.O. unions, by the use of undue pressure and unlawful methods, to gain a *total* monopoly of the construction industry. Our members wish to be represented by our unions and their choice should not be hindered by coercive methods.

From time to time, as stated earlier, the internationals will put pressure on the builders or developers to sign agreements that they will recognize only the A.F.L.-C.I.O. trades. In the main, their aim is to replace a contractor employing our members with one employing members of Local 2 of the B.M.P.I.U. They may or may not resort to picket lines.

The builder, who is in a hurry to get his project completed, usually expects the worse and often readily gives in. The Local 1 contractor, as a rule, does not have the resources to fight for his contractual rights. The processes of the Ontario Labour Relations Board are too long and arduous to be of any assistance and judicial relief is difficult because of the wording of section 2 of *The Rights of Labour Act*. In our submission, there must be a ready remedy available to cure such situations.

Both Local 1 and the Canadian Union of Construction Workers welcome this opportunity to present their views to the Royal Commission. We trust that our submission will be helpful to the work of the Commission and that the contents of this brief are in accordance with the Commissioner's direction of November 20th, 1973 (page 4342 of the Report of the Proceedings). All of which is respectfully submitted,

John Meiorin

April 4th, 1974

APPENDIX E

The Christian Labour Association of Canada

We wish to express our appreciation for the opportunity to present our submissions on the problems under investigation by your Commission. It is our conviction that these problems, rather than being isolated features in an otherwise healthy labour relations system, are microcosms of that system as a whole. We also believe that genuine solutions can only be found if we are willing to re-examine and re-evaluate the basic motives that have shaped our social-economic order. Failing to do so will result in symptom treatments which leave the disease itself untouched.

In this paper we will present an outline of some basic problematics as well as some provisional recommendations. In addition we are presenting the following supplements providing some details and statistical data:

- | | |
|----------------|---|
| Supplement 'A' | Income Distribution in Ontario |
| Supplement 'B' | Craft Unions and Trade Jurisdictions |
| Supplement 'C' | Random Sample of Restrictive Hiring and Subcontracting Clauses in Construction Collective Agreements |
| Supplement 'D' | Selected list of cases in which CLAC-organized work-crews and their employers were subjected to interference, boycotts and strikes by AFL-CIO-CLC-affiliated building trade unions. |

(The supplements are not printed in this volume, but are attached to the original brief.)

We wish to point out that the Christian Labour Association of Canada is a trade union movement which has been certified by the Ontario Labour Relations Board on approximately 200 occasions during the past 11 years.

Presently CLAC has about 120 collective labour agreements in the Ontario construction industry with concentrations in Windsor, Sarnia, Niagara Peninsula, Brantford, Barrie, Orillia, Peterborough, Trenton, Belleville and Sault Ste. Marie. In addition, it has 27 collective agreements with firms outside the construction industry. Finally, CLAC is a government-certified trade union in British Columbia and Alberta having a number of collective agreements with construction and non-construction firms in those provinces.

ECONOMISM IN OUR SOCIETY

Our present social-economic order is motivated by a spirit of corporate capitalism which views business, industrial relations and even the whole of life in an economistic perspective. Capitalism, with its roots reaching back to the humanism of the fifteenth and eighteenth centuries (Renaissance and Enlightenment), transforms the factors of production into mere money values. Our pre-occupation with economic progress, profits and wages in many ways shapes the direction of our Western culture. This was clearly expressed by one of our leading economists, Milton Friedman, who wrote in 1962:

Few trends could so thoroughly undermine the very foundations of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible. This is a fundamentally subversive doctrine. (Milton Friedman, *Capitalism and Freedom*, Chicago: The University of Chicago Press 1962, page 133)

In a 1972 speech for the Women's Canadian Club of Hamilton, Mr. J. Peter Gordon, president of Stelco, stated:

The drive by industry to find more efficient ways of producing improved goods and services which create jobs and higher living standards, is inspired by the profit motive. Profit is essentially a principle of social organization that ensures that the creation instincts of each of us will be applied toward economic progress ... The best way to improve everybody's lot is to make a bigger pie! (emphasis added)

This absolutization of economic progress, profits and wages, coupled with a strong influence of individualism, (especially before 1940), has led to a concept of industrial relations in which self-interest, group-interest and

perpetual conflict play a dominating role. It clearly indicates a religious faith in man as 'homo economicus'. Within this concept, the enterprise is regarded primarily as a profit-creating device in which the worker is reduced to a mere economic factor, useful only in the measure that he contributes to the realization of more profits. Workers themselves, either consciously or subconsciously, experience this dehumanizing situation when they are expected to perform mainly mechanical and often meaningless tasks in our industries. In the construction industry they undergo this degradation by being hired, paid and fired by the hour. In union hiring halls they are shelf items waiting to be sold or rented like merchandise. Their usefulness to society is determined by the economic value of their skills and labour.

ECONOMISM AND INDUSTRIAL UNREST

As a result, the conflict situation and the adversary mentality is a built-in feature of our industrial structures. Many management and union spokesmen have come to regard conflict as normal and inevitable. Even an astute statesman such as T.C. Douglas writes: 'The essence of industrial relations is conflict' (*Labour Problems in Christian Perspective*, Grand Rapids: Eerdmans, 1970, page 11). We believe that much of the unrest in Ontario stems from this deeply embedded antagonism between managements and trade unions. The two consider themselves as natural enemies in a continuous state of war over the question who will get what in terms of money (either in profits or wages). The collective agreement is a cease fire document, introducing a terminal period of co-existence, and its termination frequently means a resumption of hostilities. In collective bargaining, gains for one side are invariably considered losses for the other, and vice versa. There is an almost complete lack of recognition that both management and workers ought to be engaged in the same undertaking to provide goods and services for the fulfilment of *genuine* needs in society, and that the rendering of such true service should be the dominant and primary goal of the enterprise.

We fully realize that the existing seasonal character of the construction industry makes it very difficult to establish work communities of both 'managers' and 'workers' in which every participant has his rightful and permanent place. We are also aware that, even under the most advantageous circumstances, workers may switch their allegiance from one firm to the other if they so desire. Also, we do not advocate abolition of all competitive relationships between various companies, although cut-throat

competition is an inhuman way of handling any industrial problem. But it is our considered opinion that the general pre-occupation with monetary gains, financial status, and economic power (on the part of developers, contractors and unions), and the lack of lasting bonds between employers and employees, especially in the construction industry, has greatly contributed to an elimination and degradation of values such as dignity, work satisfaction, recognition of the individual worker, harmony, justice and peace. The result has been alienation between employers and employees, as well as among employees themselves.

ECONOMISM AND INCOME DISTRIBUTION

We believe that both industry and trade unions are co-responsible for the excessive emphasis in our culture on economic gain and material well-being. A society in which people measure each according to income and financial status and in which the gross economic product is the key priority, is a society which becomes fundamentally distorted. The chronic inflation which plagues Canada, the United States and Western Europe is, in many respects, but the fever of a production-obsessed industry and a consumption-conditioned public. Our own Canadian society is showing signs of such distortion in, for example, the unjustified disparities between various categories of people. (Supplement 'A' provides some details in this respect.) In the unionized construction industry hourly rates plus benefits often amount to seven, eight and even nine dollars and many of the unions are demanding 10 to 15% increases. This contrasts sharply with the thousands of industrial workers, unionized and non-unionized, whose hourly rate continues to stay below three or four dollars. Just as serious are the income differentials between people living on fixed incomes (pensioners) and those belonging to the labour force; between workers in so-called marginal industries and those employed by wealthy corporations; between shrewd investors and land speculators and often poorly-paid hourly workers, as well as between those in geographically different economic areas. In addition, we are faced with the fact that certain types of important work (for example, social workers, hospital staff, and artists) are very insufficiently rewarded, because our economically-oriented society fails to appreciate such work. Workers in these sectors supposedly do not contribute to economically profitable production.

Last, but not least, there is a poignant contrast between the standards of living in our own nation and the so-called development countries. Statistics show that the 1970 per capita income in South East Asia was one-third of the North American per capita income as it was *a hundred years ago*.

A RELIGIOUS QUESTION

The core of our problematics is not just a matter of redistribution of income, although this is highly necessary. The heart of the matter concerns the deeply religious question 'Who is man?' We use the word 'religious' to describe the nature of this question, not because it is of relevance only to people of certain denominational preference, but because it is a *fundamental* and *central* question for *all* men and *all* societies. Is man a mere economic animal whose economic needs must first be fulfilled? Must he be pushed towards more production and consumption, if necessary by the subtle influence of the industry-controlled media? Must his instincts, shaped by the profit principle, be applied towards economic 'progress', as Mr. Gordon would like us believe? The Christian Labour Association of Canada rejects such a reductionist inhuman view of man, because it is radically at odds with a Christian view of man, in which human responsibility, freedom to work and serve, stewardship and equality are central. The inspired sources of the Christian religion, the Holy Scriptures of the Old and New Testaments, leave us no uncertainty that these are essential characteristics of man. Man's destiny, according to the Bible is to be responsible for the management and development of God's creation, which is to be a home for mankind. Man is expected to deal responsibly in the service of his Lord with his fellowman, the earth and its resources. Men have the mutual obligation to promote each other's wellbeing as creatures of the same Lord and Creator. The biblical admonition to seek the things which are above, is not, as Christians have often thought, a call to shun involvement. Instead, it is an incitement to order human relationships in harmony with the Creator's good and perfect will, with His command to love one another. The well known German theologian and martyr of the Nazi regime, Dietrich Bonhoeffer, once wrote:

Aspire after the things on earth. Today it is of decisive importance that we, Christians, are not dreamers but stand with both feet firmly planted on the ground. That we don't leave things just as they are, and that our faith is not an opiate which makes us satisfied in the midst of an unjust world. On the contrary, precisely because we aspire to the things above, our protest on this earth must be the more stubborn and purposeful.

This is what the Christian Labour Association of Canada is all about. It is concerned, first and foremost, with the revival and implementation of the fundamental motifs of the Christian faith as these pertain to the economic sector. We believe that the CLAC can make a distinct contribution to our

Canadian society, especially in our time in which the influence of these motifs is being radically eliminated.

INTOLERANCE IN ONTARIO

The tragedy of the Third Reich was that minority convictions such as Bonhoeffer's were not tolerated. Whenever totalitarian ideologies, whether they be fascist, communist, or capitalist, deny full freedom and opportunity to differently-motivated groups, the nation suffers. There is indeed a strong tendency also in our society to stifle dissent and to suppress movements which go contrary to established patterns and convictions. To be sure, the CLAC is a government-recognized and certified trade union movement in Ontario, but it took many years of legal struggle, culminating in Supreme Court action, to have such formal recognition established. Moreover, mere legal recognition is by no means a guarantee of unhindered development. Time and again, CLAC-organized workers meet with boycotts and interference because they, rather than belonging to a union adhering to the adversary mentality, chose to be represented by an organization which attempts to work out of a Christian view of man and society. (See the detailed list of incidents in Supplement 'D'.) we wish to make it clear that we are not singling out the AFL-CIO-CLC-affiliated unions as CLAC's only opponents. As noted earlier, the problematics we are dealing with have deep roots within our society in all its manifestations. In the field of industrial relations, CLAC is continually engaged in a struggle against the in-human capitalist spirit which often dominates management. Frequently we experience that companies, out of fear for financial loss, give in to illegal pressures of other unions and cancel their contracts with CLAC-organized firms. Also, many firms favour CLAC over other unions, because they hope to gain financial benefits from such a relationship. The moment they discover that this is not necessarily the case, their enthusiasm cools markedly. This is not the complete picture. We are grateful that a number of employers, whose construction workers are represented by CLAC, have responded positively to CLAC's attempts to establish more lasting bonds between employer and employees, to view their workers as genuine partners in the enterprise rather than hourly-paid tools, and to foster a spirit of cooperation and consultation both between employers and employees and among workers themselves. CLAC's practice of organizing all trades has thus far eliminated all forms of jurisdictional disputes. At the same time, we are keenly aware of the fact that we have barely begun and that the task of establishing true justice and harmony is a gigantic and never-ending assignment to all.

FRAGMENTATION AND MONOPOLY

It is frequently argued by labour spokesmen that unity and solidarity among workers is essential for the establishment of just labour relations and working conditions. This view presupposes a natural adversary relationship between employers and employees, a relationship in which the former are the oppressors and the latter the oppressed. Within this framework of thought a movement such as the CLAC can only be experienced as a threat, as indeed it is. We do not think that the line between good and evil runs between employers and employees, nor do we believe in an inevitable conflict of interest between the two. History abounds with cases in which the union acted to the detriment of the workers. There are also examples of employers who showed genuine concern for and interest in the wellbeing of their employees.

As could be expected, reality does not show two homogeneous power-blocks. It is abundantly clear that the economic view of man and society, centering on the pursuit of self-interest and financial gain, and shared by many managements and unions, has resulted in bitter animosity and severe fragmentation. Egotism never unites for it is by definition a disintegrating factor.

Contractors and their associations are far from unanimous in their policies. The construction trade union structure consists of some 20 autonomous craft unions, each attempting to outdo the other in obtaining the highest gains and each jealously guarding certain jurisdictional borderlines. (We believe the government has aggravated the situation by legislation which grants special privileged status to those unions which organize workers of one craft only. See Sec. 6.2, The Labour Relations Act.)

If one could ever speak of total fragmentation, it can be found here. The inter-union struggle in the plastering, lathing and dry-walling industry clearly illustrates this fragmentation. So do the attempts by the Quebec-based QFL (AFL-CIO-CLC)-affiliated unions to penetrate and dominate the Ottawa area. Last year's strike by a small number of elevator workers and the resulting lengthy layoffs in the construction industry is another one of the more recent examples.

This brings us to the seemingly paradoxical situation of a severely fragmented labour movement which nevertheless occupies a monopolistic power position. This paradox is more apparent than real. The fact that the law recognizes only one union as the bargaining agent of *all* employees in a given bargaining unit (even though that union may have no more than 51% of the workers signed up) thus giving that union a monopoly position, sets the stage for future struggles with other unions vying for the same position

of power. The single representation system leaves no room for the development of a different approach among the workers other than a possible wholesale takeover by another union during the 'open season'. This winner-take-all system, aggravated by the widespread practice of compulsory support (closed shop, etc.) is to a very large degree responsible for the abuses of power in the labour movement, as well as for the high degree of inter-union rivalry. Many if not most of the problems and incidents investigated by your Commission can be directly traced to a labour relations system which recognizes only one union as the representative of all workers and which sanctions provisions making support of that union a condition of employment. This labour relations system, in turn, is based on the mistaken belief that trade unions are religiously neutral organizations and that fundamentally different beliefs and convictions among workers about work and workrelationships either do not exist or are illegitimate.

The monopolistic power position of the construction trade unions has also other serious consequences for the social and economic conditions of the country. Hiringhall clauses in virtually all collective agreements oblige contractors to obtain their manpower from the craft union involved. (See Supplement "C".) This arrangement provides these unions with an apparatus by which they can and do create an artificial scarcity of skilled workers. Tradesmen, visiting our offices in search for work, openly express their fear of reprisals from their own union and their reluctance to accept work when they learn that the CLAC is an independent union. Many of them turn down well-paid jobs, knowing that after eventual layoffs they will be at the mercy of their own union. Others are simply unable to join a craft union, either because the union refuses to take in new members or because of the exorbitant high initiation fees. (From different sources we learned that the Kitchener Local of the U.A. Plumbers and Pipefitters Union charges an initiation fee of \$700.) Another example of the uninhibited control exercised by craft unions is the fine system. We possess documents proving that certain skilled tradesmen were fined by their international union the sum of \$5,000.00 for performing emergency work during a strike. Other tradesmen, when the majority of their fellow workers elected the CLAC as their representative union, were summarily ordered by their union to quit their employment with the company involved and go on the hiringhall list.

The artificial scarcity of skilled tradesmen, together with the craft unions' control of available manpower, has greatly contributed to the disproportionate hourly rate increases over the past ten years in the construction industry. Moreover, it has sharpened the already unjust differences

in income levels and it has indirectly added to the general atmosphere of dissatisfaction and unrest in the country. Contractors, too, must share much of the blame for the unwholesome situation. It is no secret that a very large percentage of Ontario's construction is done by a relatively small group of large construction and development companies. This group, driven by economic motives, exercises vast power and influence which is detrimental to the wellbeing of the workers, the economy and the public. Their pre-occupation with financial gain and their fear of costly delays have often caused them to sacrifice the rights of workers and to grant unjustified wage increases in exchange for labour 'peace' at the expense of taxpayer and consumer. CLAC-organized sub-contracting firms have lost several contracts because of such deals. (The fact that owner-clients often demand tight work-schedules and tolerate no delays illustrates that the construction industry is not an isolated field which can be treated separately from non-construction areas.) The sheer size and influence of this small group of construction firms enables them to stay competitive in a cutthroat manner and to act as pace setters in the industry. A large number of medium- and small-sized firms are subsequently forced to fall in line.

We believe that within the present situation the CLAC, inspired by radically different convictions, rather than being divisive, can contribute to renewal and establishment of genuine harmony. As a Christian labour movement the CLAC is vitally concerned about bringing wholeness and healing in our strife-torn labour scene.

We realize that legislative measures do not automatically change people's mentalities and motivations, although the influence of positive legislation should not be underestimated. But it is equally true that legislative restrictions which prevent or hinder forces of renewal and restoration to make their influence felt, can do untold harm to serve to continue an unhealthy stalemate. There are thousands of Ontario construction workers who do not relish the perpetuation of a labour climate in which hatred, compulsion, corruption, intolerance, greed, strife and strikes dominate. Under the present legal structure these workers are often deprived of making an alternative choice of their own and, consequently, they cannot make a contribution toward real improvement.

THE ROLE OF GOVERNMENT

We are aware of the fact that the scope of your inquiry is a limited one. We earnestly hope, however, that the Commission will realize the intricate relationship between the immediate problems before it and the total

framework of industrial relations. We also hope that the Commission's final recommendations will not be restricted to the immediate situation in the plastering, lathing and dry-walling industry, nor, for that matter, to the construction industry, but that they will address themselves to the entire spectrum of labour relations within the province.

To bring about real and lasting improvements it is necessary that the government, as the administrator of public justice, create conditions which allow and encourage the free development of groups and movements operating out of different life perspectives. The government should not hesitate to curb those societal structures, be they industries or trade unions, which infringe on or disregard the freedom and wellbeing of others. For example, a government which prohibits industrial pollution is thereby not infringing on the freedom of the enterprise; it is merely fulfilling its task of protecting society against industry's abuse of freedom. Similarly, a legal bar against compulsory support of a particular union is not an attack on freedom of association. On the contrary, it protects workers, as well as others, against the imposition of group-interests at the cost of the public wellbeing. Again, curbing the power of a group of firms to act as price setters of both wages and prices which are detrimental to the economy, is a matter of public- and, therefore, governmental concern. The foregoing implies that the task of government with respect to industrial relations and social economic matters is much larger than is generally assumed.

We wish to emphasize that the lack of freedom of conscience with respect to union support is a pressing problem that must be solved under all circumstances. However, we recognize that mere enactment of so-called right to work laws will not bring about justice and labour peace. In fact, such legislation might well aggravate the situation. Selfish employers would exploit such a situation to the detriment of workers and unions.

We firmly believe that the labour movement should receive much more recognition in social and economic matters of the nation than has thus far been the case. We do not think it right that the employees in a bargaining unit remain without representation until at least 51% decide to join one particular union. Nor do we agree with a system which allows a union that has a majority to compel a minority to support it. The present situation fosters industrial strife and cutthroat competition, since non-union firms (firms where less than 51% of the workers agree on the choice of one particular union) often severely and unfairly threaten the competitive position of unionized firms. In addition, such non-union firms frequently use every opportunity to discourage their workers from joining a union.

We also disagree with the present practice to view the construction

industry as a collection of thousands of individual bargaining units each with the option to be or not to be part of the wage and working conditions structure negotiated by unions and employers associations. The total construction industry should be considered one large bargaining unit (albeit with different sectors and geographic areas) and no group of construction employees should be exempted from the province-wide provisions regarding wages and working conditions. In our opinion the labour movement (provided this term is not reserved for one particular group of trade unions such as the AFL-CIO-CLC sharing the same philosophy) should be recognized as the legitimate representative of the workers and, as such, be accorded an important place in the process of province-wide negotiations on wages and working conditions. Therefore, all trade unions, legally recognized to pertain to the construction industry, should have the right to participate in the negotiations. We want to stress that access to this province-wide structure must be open to all associations of workers, irrespective of their affiliation or lack of it, subject to certain minimal standards regarding constitutional requirements and practices. (In our view the present development in the Quebec construction industry must be avoided at all costs in Ontario.)

Contractors associations, also composed of various voluntary groupings, should be recognized as the legitimate representatives of the managements involved during the negotiations.

Negotiations, however, should not be restricted to these two parties, since the outcome of the negotiations has an important effect on the economy and on other large segments of society. Public justice requires that the government, as the administrator and guardian of public justice, involves these other segments in the negotiating process. It should create a Provincial Social Economic Council composed of knowledgeable representatives of the government itself and of such groupings as the consumers and ratepayers associations as well as representatives of employers' associations and trade unions. This Provincial Social Economic Council, as a permanent third party, should participate in the negotiations and, in cases of deadlock between contractors and unions, have the right to issue final and binding settlements regarding monetary issues and duration clauses.

Upon reaching a settlement (which should be negotiated province-wide) the Government should issue a decree making the negotiated wage rates and working-conditions mandatory in the construction industry throughout the province. We believe that an industrial relations system along the above-mentioned lines would greatly help to reduce unjust working condi-

tions, exorbitant wage rates, vast wage disparities between construction and non-construction workers, unfair competition, exploitation by employers, inter-union rivalry, monopoly use and abuse of power, and compulsory union membership. It would foster uniformity of wages and working conditions everywhere, allow each worker to join the union of his own choice, and encourage unions to communicate and deal with their members in a spirit of freedom without fear of raids and reprisals. It would also allow and stimulate unions to look after the real interests of their members by offering them employment opportunity services, and provide them with advice and assistance on a host of subjects, including grievance processing, obtaining unemployment insurance, upgrading skills, etc.

Finally, we believe that the government should strongly stimulate cooperation and coordination between construction firms, owner-clients, developers and trade unions in levelling out the demand for construction services, thus alleviating the hardships of the cyclical and seasonal nature of the construction industry. Construction of public works should, as much as possible, be undertaken on an anti-cyclical basis.

RECOMMENDATIONS

In conclusion, we respectfully request the Commission to include the following recommendations in its report:

- (1) Introduction of legislation which allows construction workers to join, support, and be represented by the trade union of their own choosing.
- (2) Introduction of legislation which prohibits secondary and product boycotts.
- (3) Introduction of legislation which prohibits clauses in collective agreements stipulating that only members of a certain trade union or certain trade unions will be permitted to perform work.
- (4) Introduction of legislation which prohibits clauses in collective agreements stipulating that a company will only engage subcontractors who employ members of a certain trade union or council of trade unions.
- (5) Introduction of legislation which stipulates that collective bargaining pertaining to issues such as wage rates (including overtime rates) vacation pay, benefits and duration clauses, take place on a province-wide, multi-trade, multi-party basis, with all trade unions, legally recognized to pertain to the construction industry, participating. With respect to issues other than those mentioned above, provision must be made for the different trade unions and contractor associations to work out agreements suited to the peculiar trades and convictions of the parties involved.

(6) Establishment by the Government of a Provincial Social Economic Council, consisting of representatives of the construction industry (both employers and trade unions) and social and economic experts from other sectors, including the government and the consumers. The Council constitutes the third party and participates in all negotiations. In cases of a deadlock, the Council may issue final and binding settlements regarding all monetary issues and duration clauses.

(7) Government stimulation of coordination and cooperation between construction firms, owner-clients, and trade unions in levelling out the demand for construction services.

(8) Undertaking of public works construction, as much as possible, on an anti-cyclical and anti-seasonal basis.

(9) Repeal of Section 6(2) of the Labour Relations Act granting special craft status to certain unions.

(10) Repeal of Section 81(14) of The Labour Relations Act regarding voluntary tribunals in jurisdictional disputes, and introduction of legislation requiring automatic referral of such disputes to the Ontario Labour Relations Board for final and binding settlement.

On page 1 of this paper we stated that our recommendations are provisional in nature. We did not intend to present the Commission with a legislative blueprint. Nor do we pretend to have at our disposal all kinds of ready-made solutions. We realize that the problematics are too complex and involved and that a simplistic approach will inevitably lead to failure and disappointment.

We do believe, however, that our fundamental critique and farreaching recommendations warrant serious consideration, since they form a meaningful alternative to the crisis-ridden state of present-day industrial relations in all phases of the Ontario construction industry.

Respectfully submitted,
for the National Board of the
Christian Labour Association of Canada

Edward Vanderkloet
Executive Secretary

APPENDIX F

Toronto Building and Construction Trades Council

The Toronto Building and Construction Trades Council, a coordinating body servicing approximately 100 representatives of 22 Local Unions, representing close to 30,000 building tradesmen in various sections of the building and construction trades in the Metro Toronto area, welcomes this opportunity to present this submission to your Commission. As a supplement, attached is the completed questionnaire that was sent out by your Commission – Exhibit 1. This brief is additional to the last question in your questionnaire referred to as ‘General’ and is a brief statement of our philosophy, policies and a re-emphasis of our main proposals.

The T.B. & C.T.C. represents all the unions in the industry with the exception of the Operative Plasterers and Cement Masons International Association, Locals 48, 172 and 598 and the Independent Bricklayers. We have a contractual relationship with over 400 general contractors half of whom are within the Toronto Construction Association.

The T.B. & C.T.C. is most anxious to cooperate with the Commission to help resolve the problems under purview as outlined in the Commission’s terms of reference.

We are greatly perturbed that as a result of the activities of a few individuals the whole industry, in the eyes of the public, has been besmirched. We are confident that your Commission will see that justice is done. But we are most anxious that your report specifically and publicly clears those of us, the great majority, who have abided by the law and who have operated fairly and observed the highest principles of honest trade unionism. We believe this is necessary in view of the wide coverage the

press gave to the misdeeds of the few without too much attention to exonerating the innocent.

Your report can do much to restore confidence in the industry and the legitimate unions operating in this field and can contribute to achieving a stabilization of the industry and a necessary degree of peace.

We agree with the position taken in the submission of the Provincial Building Trades Council that if the Construction Industry Review Panel proposals contained in their 'Package' are adopted, we will have gone a long way toward creating an atmosphere of mutual trust in this industry that will be conducive to a more harmonious relationship and bring peace and stability to the industry.

The Construction Industry Review Panel was structured by the Government of Ontario with the purpose and function of alleviating the problems of the industry and keeping conflict down to a minimum during the collective bargaining process.

The Commission's investigation has centred around the Residential part of the industry. This industry, besides being the least organized, constitutes only about a third of our membership. The bulk of our membership is concentrated in sections of the industry practically free from the problems under investigation.

The Residential sector of the industry has had a long history of problems going back some fifteen years. This is well documented in the Goldenberg report and other studies since.

Since that time through an evolutionary program many of the problems that existed have been overcome. Out of the shutdown of the builders' projects initiated by this Council in 1969 has come greater stability in the industry. The evidence coming forth at the Commission hearing has emanated predominately from the period prior to and including the years 1969-1970.

Although this Council has been in a contractual relationship with the apartment builders since 1969 and admittedly much progress has been made, the causes of the turmoil do not leave the builders blameless. The Goldenberg Report verified that there was widespread exploitation by sub-contractors. The fact is, these contractors in the main were created by the builders, whom they afterwards manipulated to their liking and generally kept the sub-contractors subservient to them. One of the things that bothers the builder today is where the Trades have organized and subsequently the Trade Contractors Association has been structured, he, the builder, does not have the control he previously enjoyed.

To assist the Commission for their verification we are enclosing a brief

document called 'History of Bruno Zanini' – Exhibit 2, that was compiled in 1971 by Clive Ballentine from his day book.

Although the Commissions investigation has touched only a very few unions and representatives, this unfortunately has created a bad reflection on our total organization. The majority of local unions have been in existence for 75 years with no blemish on their record. At this time they understandably are full of resentment and frustration as a result of the false accusations that they are unscrupulous and corrupt.

We want to re-emphasize that the single dwelling Residential section of the industry is practically non-union. The home builders have very adroitly built a piece work system that virtually makes it impossible for our unions to organize. We are convinced that exploitation of the workers and violation of various statutes prevail in this section as was the case in apartment building back in the fifties and sixties. Again, the Review Panel Package, if adopted, will assist in resolving the problems in this area.

Although we have mainly dealt with the Residential section of construction in our answers to specific questions in your questionnaire, the Commercial and Industrial section of the industry is not without problems. One of the main problems in this section that also exists in the Residential section, is the subsidiary company problem. Most of the attention in this area has centred around the Di Lorenzo cases and other sub-contractors sections, but the problem is much broader than that. We have exposed time and again the so-called fair contractors who are members of the Toronto Construction Association and contractors signed to our Working Agreement who have structure and have used the subsidiary company system.

We have on record cases where the fair union company tendered the project and was awarded the contract, but later changed to the non-union subsidiary company and then proceeded to construct the building and engage non-union sub-contractors and/or non-union tradesmen. The following are a number of examples.

Bramalea General Contractors – a member of Toronto Construction Association 1970 was awarded the Burlington Carpet project in Bramalea and then proceeded to construct same with a subsidiary company – Bradsil Contracting Company. This situation was corrected after our Council contacted the architect and owners.

1973 Vanbots Limited, a member of T.C.A., was awarded the Metro Senior Citizens Danforth Avenue contract and then constructed the project under a subsidiary company called Bacam Construction. A number of grievances were filed and as a last resort a picket line resulted in the project being stopped. The result was that Vanbots agreed not to use Bacam in the

future. In the same year Bramalea General Contractors used Bradsil again to construct a Metro Senior Citizens project at Morningside Drive in Scarborough. A grievance was filed which resulted in Bramalea agreeing not to use Bradsil on a tendering basis in the future.

At present we have a situation where Janin Building and Civil Works Limited, a member of T.C.A., was awarded the Lionstar Investments project at King Street and Weston Road. They now have a sign up on the site indicating that Sword Construction is doing the job. We have informed Janin that they are not going to get away with it. Enclosed are copies of reports from the Daily Commercial News – Exhibit 3.

This Council has carried the battle against this system on every level possible. We have a case pending before the Labour Relations Board which we initiated in June last year against Bruce N. Huntley Limited and Elmont Construction. The Board heard the case in October and we still have not received the decision. The purpose of this case is to test the relevance of Section 1.04 of the Labour Act. We do not believe that 1.04 or present Board procedure is satisfactory to correct this problem. This issue has been considered by the Review Panel and a recommended change to 1.04 is part of the Package.

We could site case after case where this problem has created frustration and disruptions. Enclosed is a list of firms that we have exposed – Exhibit 4.

There are several general points of policy and practice in the industry that we wish to clarify and emphasize.

The Unions of our Council are committed to the organizing of the whole industry and much progress has been accomplished in the high rise apartment field. A construction worker has the right to join a Union of the appropriate craft and most of our Unions seldom restrict admission to the Union providing the worker is qualified to perform under the standards which have been demanded by the industry.

Judging of qualifications must be left to each segment of the industry and at present is adequately handled especially in the Mechanical Trades section through Joint Conference Boards.

The question of sub-contract clauses in collective agreements is a necessity to stability in the industry. The obligation to the prime contractor and/or builder who is in a contractual relationship with our Council is to engage only sub-contractors who are in contractual relations with the Council's affiliated Unions.

Many of the problems created especially in the Residential field resulted from the builder creating new sub-contractors to replace the contractors who had been organized by our Unions. Prior to 1969 and the establishing

of the Overall Agreement with the Metropolitan Toronto Apartment Builders Association, the builders were creating new sub-contractors overnight; this was to frustrate our Unions' organizational program. Any tampering with the sub-contractors system in collective agreement would throw the industry back to the jungle.

We are also concerned that the Hiring Hall principle be maintained.

The basic principle of the Hiring Hall system is to distribute as fairly as possible the available employment during periods of unemployment and we have many of these periods in the construction industry. The industry benefits from the Hiring Hall system, although some management groups may disagree. The Hiring Hall system retains the work force during recession periods so that they are available for periods of demand. Availability of qualified tradesmen on a continuing basis is important to the industry, especially in a large metropolis such as the Metro Toronto area.

Any union representative will tell you that one of their toughest jobs is running the Hiring Hall system, without it, total deterioration would result. Building tradesmen stay with the industry when laid off; this is the opposite to the case in other industries. It is generally considered that one of the main responsibilities of a union in the construction industry is to place members in suitable employment when the opportunity presents itself. The vast majority of our local unions run the system on the principles mentioned and to the best interest of the industry.

Attached is a list of the various Hiring Hall systems our Council supplied to the U.I.C. a year ago – Exhibit 5. Any tampering with the system would bring chaos. The Hiring Hall control must stay with the local union.

In conclusion we wish to categorically state that this council will in no way condone or defend unions or representatives who may have shown indiscretions and have betrayed the trust of the workers they represent. If you closely examine our union structure in Metro Toronto and other large metropolises on the North American continent we believe you will find that we have one of the best and most efficient structures that exists.

As the Manager of the Toronto Building and Construction Trades Council I assure the Commission that we have answered the questions sincerely, honestly and to the best of our ability. If I can be of any other assistance to the Commission I will make myself available. I am prepared to be publicly questioned.

C.A. Ballentine,
Business Manager,
Toronto Building and Construction
Trades Council

APPENDIX G

Ontario Council of the Housing & Urban Development Association of Canada Association Canadienne de l'habitation et du Developpement Urbain

Having been directly involved in Construction Labour Relations at the level of the two leading industry-wide national employer organizations (C.C.A. and HUDAC) since 1958, I am pleased to comply with the invitation of Prof. H.D. Woods to present a few comments on some fundamental aspects of the items under review by this Royal Commission.

I SOME HISTORICAL/PHILOSOPHICAL ASPECTS

Perhaps the current Special Session of the United Nations called to attempt to develop better solutions to the fair share distribution of material wealth among the nations of this planet draws attention to the root problems which have forced the Government of Ontario – after considerable soul searching – to concede an opposition demand to establish this rather unusual Royal Commission.

The fight for survival, greed and jealousy are basic instincts which the human race unquestionably inherited from its parent form of life – the world of the animal.

The inequality of the capabilities of fully developed human beings will surely persist as long as humans survive. In a way, the world will be the better for it because life among humans of equal ability would surely be terribly dull due to lack of challenge. In any event, humans can fortunately never be equal, if only because of the process of the life cycle itself – the ageing process.

Other recent Ontario Royal Commissions – and particularly those of Mr.

Justice Ivan C. Rand and Senator H. Carl Goldenberg – have studied much of the very same ground, now again under review, though in this instance rather more specific on one aspect of the broader issues.

Both Royal Commissions offered Conclusions and Recommendations. However, since ‘the first duty of any democratically elected government’ was centuries ago agreed by such authorities as Robert Walpole and William Pitt to be ‘to assure its re-election’, the recommendations of Senator Goldenberg of March 1962 were only adopted in part and those of Mr. Justice Rand of August 1968 were never implemented – though they may have been used as a threat on occasion and thereby perhaps did serve a useful purpose.

Another political aspect of key consequence to any Royal Commission’s recommendations has to be the Commissioner’s and subsequently the Government’s appraisal of ‘How Much’ change can be introduced ‘How Fast’. These are judgements requiring the evaluation of many factors – some of them entirely unrelated to the issues at hand.

These considerations may lead to questioning the contention that the British System of Parliamentary Democracy is not only the most viable and effective form of government, but also the most beneficial. Some forms of paternalistic dictatorships may in certain circumstances be both more effective as well as beneficial to their people in the long run.

There is however one feature historically primarily practised by the Swiss, and more recently by the Belgians and the Australians in one of its aspects, which would seem to warrant wider adoption in truly democratic forms of government. This is a compulsory constitutional requirement for voters to participate in a referendum on issues of consequence, e.g. expenditures above a set amount or other stated issues of major consequence.

In a way, the Ontario Labour Relations Board followed this practice not too long ago when taking its vote on some issue(s?) at the International Nickel Company enterprise at Sudbury. On that occasion the Board directed a mail vote addressed to the homes of the employees to be taken.

Such a practice inevitably must result in decisions being made which better represent the well-considered view of the electorate than those arrived at under other circumstances.

The freedom of the individual, equality of opportunity and the rule of the majority are the cornerstones of democracy – be it in the form of a nation’s government or its social or economic organizations. These too are the freely adopted principles intended to govern the affairs of labour and management organizations in democratically governed countries. There have, however, been some blatant infringements of the rule of democracy

and the invasion of criminal elements in a small number of U.S. international labour organizations operating in Canada confirmed by Court judgements in recent years, e.g. the Hoffa and Boyle cases to cite only two.

One further historical point of indirect influence on the usefulness of Royal Commissions for the correction of obvious malpractices in labour-management relations should be the findings of Dr. Joseph Shister in a study of the actual value of the political support of trade unions in delivering the votes of their members in the United States. The findings of this research project of the early 1950s rejected the claim by union leaders of being able to 'deliver the vote'. The same is clearly generally true in Canada and still remains so in the U.S. even today. Neither campaign funds nor the provision of trained full-time union organizers as election campaign staff would appear to have affected any major elections decisively – not even those recently held in British Columbia, Saskatchewan or Manitoba.

The more recent selfish and greedy behaviour of 'Big Labour' – just like that of some 'Big Business' – has most likely been a key factor in spurring public antagonism against both these interest groups.

It should be noted here that even the largest construction management enterprises have continued to remain 'Small Business' when compared to national or multi-national industrial giants.

2 CONSTRUCTION LABOUR RELATIONS IN ONTARIO

In this Province construction workers were first organized at the turn of the century by immigrant members of the leading British building trades unions, primarily the carpenters and the bricklayers/stonemasons, for major commercial and institutional projects. The Toronto Construction Association (then Builders' Exchange) was formed at about the same time to represent construction management.

These U.K. based unions soon found themselves to be too remote from their Toronto members so that by about 1912 these construction trade unionists themselves sought the help of U.S. AFL building trades craft unions which agreed to assist the Canadian brethren.

The first major legislative step taken by an Ontario Government in support of construction unions – and management for that matter – was the adoption of the Apprenticeship Act of 1929. This provided the craft unions with wide influence over the supply of labour for their own trades and at the same time offered employers an assured source of better trained Canadian labour in days when new immigrants had been sparse in numbers.

Although the Quebec Government saw fit in 1935 to introduce the

Collective Agreement Act to govern working conditions in construction along with several other specified industries as a measure to protect workers against exploitation and their employers against competitive pressures of their clients during the recession, no similar type of legislation was adopted in Ontario.

During World War II the National Joint Board for the Construction Industry – paralleling a similar Board which had operated from 1914 until 1921 – governed construction labour-management relations on wages and working conditions throughout Canada under P.C. 1001. Formalized collective bargaining in construction then re-commenced in 1948 with the adoption of the Ontario Labour Relations Act.

The concerns of this Royal Commission are believed to have had their root in the disturbances, particularly in the residential sector of the industry of 1961 which had been preceded by work stoppages of various kinds during 1957, 1958 and 1960.

In 1961 Mr. Charles Irvine, a former trade contractor, as the Canadian Vice-President of the Operative Plasterers and Cement Masons International Association headed the so-called 'Brandon Hall' Group which attempted to organize Toronto workers of various occupations in the residential sector. The organizing campaign peaked with a mass meeting at the C.N.E. Stadium which included an address by Mr. Edward Leonard, the General President of Mr. Irvine's union from Washington, D.C.

The realization that the Brandon Hall campaign had been not only a failure but had in fact hurt the labour movement only came slowly. It had failed because even at its peak it had barely brought 50% of the total Toronto residential construction labour force into the ranks of specially, newly chartered residential 'Locals'. These new bargaining units had, it is true, negotiated first agreements offering higher wages and improved working conditions.

The campaign in due course backfired, however, because:

- a) The campaign had failed to gain control over the residential labour market for Toronto,
- b) Trade contractors signatory to the new collective agreements soon found themselves unable to obtain new jobs due to strong surviving non-union competition, and
- c) Too many of the members of the new residential 'Locals' had not only committed themselves to pay heavy 'Initiation' fees (then up to \$250.00 by installments), but before long moreover found themselves unemployed and forced to seek work on jobs of non-union trade contractors.

The Toronto Building & Construction Trades Council, long suspicious of the activities of Mr. Irvine, the ex-contractor, soon withdrew its support

of the Brandon Hall Group – given only belatedly in any event. Although this local Council quickly spotted the weaknesses and serious risks of the Brandon Hall campaign, the same was not the case for the leadership of Mr. Irvine's union head office leaders in Washington, D.C. Judging on the basis of personal experience, it appears that the Brandon Hall efforts led by Mr. Irvine firmly cemented the latter's position with his U.S. based top union executives.

The North America-wide rivalry between the plasterers and the lathers unions undoubtedly also helped Mr. Irvine's stature at his union's Washington head office – just as it had its repercussions at Toronto apartment building sites.

Finally, it can be stated that Mr. Irvine's ability to raise his union's membership (in a slowly dying trade) very considerably across Canada and to sign above-average contracts unquestionably further strengthened his Washington support. The methods used to perform such 'Miracles' were likely never questioned since there were never any complaints filed or prosecutions undertaken against Mr. Irvine under any Canadian legislation – if only for lack of evidence.

3 CURRENT STATUS AND KEY ISSUES

The inherent instability arising from the very nature of the construction industry has firmly left its marks on both labour and management. During periods of lack of work, both labour and management suffer basically the same fate and their relationship to each other gives little cause for serious conflict between them – with only rare exceptions.

On the other hand, in days of high demands for construction services, organized labour is able to exert great pressure on its employer groups and has time and again taken every advantage of such circumstances. The reasons for labour's ability to do so are:

- (a) Its virtual monopoly control over the supply of union men,
- (b) The traditional lack of interest or desire to resist on the part of the industry's clients – be they public or non-public,
- (c) The absence of effective voluntary employer unity due to ineffective organization,
- (d) The persisting reticence of government to intervene – either directly or by legislative changes,
- (e) The indifference of the public to almost all construction conflicts, and
- (f) The existing modified Closed or Union Shop and Hiring Hall clauses of most collective agreements.

The above particularly applies to the commercial, industrial and institu-

tional sector of the industry which is today virtually completely unionized. The same however is not necessarily true for the roadbuilding or the residential sectors of the industry.

Unions so far only control major roadbuilding work at or near larger centres and for residential jobs only all work at Thunder Bay and Windsor and most high rise projects at Toronto. At present Ontario's total construction labour force likely comprises 250,000 men of whom probably 200,000 work full time. About less than half of these, i.e. 90,000 men are union members.

It should be noted that the Christian Labour Association of Canada does have enough construction tradesmen as members in S.W. Ontario to be able to man major residential high rise projects at a city such as Windsor.

The latter situation has given one leading Windsor residential construction firm having labour agreements with both C.L.A.C. as well as the AFL craft unions a unique strength at the bargaining table – a situation which in Windsor – where the residential share of the total volume of construction has been particularly high in recent years – has at least provided some balance of power at the bargaining table.

It should also be noted that at least two prominent construction union leaders who reside(d) outside Toronto have in the past been charged and convicted (one case at least) of assault of members of their own Locals.

For about 2½ years now the (Joint) Construction Industry Review Panel appointed by the Ontario Minister of Labour has attempted to exert a sobering influence on the unionized sector of the industry. These efforts proved reasonably successful during the 1973 negotiations. Since then pilot research has been undertaken in an attempt to forecast the labour requirements for unionized projects with the intent to reduce the considerable fluctuations in the volume of work from year to year. The objective of stabilizing the industry onto a steady growth path to overcome cyclical changes in volume, thereby assuring improved stability of workers' incomes, is obviously well worthwhile. However, even if such an intricate operation should prove successful once an adequate methodology has been found, it is doubtful if the consequent income stability will reduce union demands at the bargaining table – especially during periods of rapid inflation.

Structural instability in the bargaining process will likely continue to be the most vital factor giving cause to disputes between construction labour and management. As long as negotiations are conducted trade by trade at every sizeable Ontario city, the industry will inevitably suffer under excessive opportunities for conflict, consecutive disruption through strikes and

further inflationary settlements. Except for a very few trades, efforts to negotiate province-wide or multi-trade wide at the local level during the last decade mostly failed.

Finally, the fact that Closed and Union Shop and Hiring Hall clauses in construction inevitably place the employer as well as an employee at the mercy of a union official cannot be ignored. Such clauses were rarely gained in this industry on what could be termed a 'legitimate' basis. Most of these clauses were conceded by management as a short-term expediency because they did not involve any immediate cost increases on any projects already under way on a firm price basis. The submission of the Canadian Labour Congress to Mr. Justice Norris concerning the S.I.U. adequately dealt with the evils of a union run hiring hall, it should be noted. Closed and Union Shops normally are in violation of the freedom of the individual to join or refrain from joining a given union. It has to be conceded here that due to the craft structure of the AFL construction unions any tradesman automatically *de facto* surrenders his right 'to join the union of his choice.' On the other hand, both CLAC and the CNTU have their construction workers structured industry-wide.

4 REALISTIC SOLUTIONS

- (a) Appropriate amendments of the Federal Combines Investigation Act (Section 4) which still exempts 'combinations of workmen' (Trade Unions) from the provisions of this Act as far as 'their own reasonable protection' is concerned so that at least union officials will come under some effective control, perhaps by a cross reference to Section 32 (1 & 3) at least.
- (b) Introduction of a compulsory Ontario Trade Union Act requiring unions operating in this Province to include certain requirements in their constitutions concerning rights and responsibilities of their members as well as their elected and appointed officers and also the financial accountability to their memberships.
- (c) Amendments to the Construction Industry Sections of the Ontario Labour Relations Act to provide for:
 - i) The elimination of Closed or Union Shop agreements of any kind as well as of union operated Hiring Halls, and
 - ii) Compulsory province-wide, industry sector wide multi-trade bargaining for 4 or 5 defined wage zones.
- (d) Repeal of the Rights of Labour Act so that unions may be sued as legal entities.

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It is hoped that the above information, comment and proposed solutions will commend themselves to the Commission.

The undersigned would be pleased to elaborate further, answer any questions and make himself available to the Commission.

Respectfully submitted,

Peter Stevens,
Executive Secretary.

APPENDIX H

Masonry Contractors' Association (Toronto-Incorporated)

We the members of the Masonry Contractors' Association of Toronto, Inc. welcome this opportunity to present our submissions on certain *freedoms* which we do not have presently within the Construction Industry.

The matters we submit with this letter outlines our concern, and a proposal from our Association regarding new legislation, if adopted, would solve some of the problems besetting the Construction Industry to-day.

We believe our proposals would satisfy both Labour and Management.

INTRODUCTION

The Masonry Contractors' Association of Toronto, Inc. has been in existence since June 27, 1956 and the ninety-five members, to date, of our Association employ approximately 1,800, consisting of bricklayers and labourers. This does not include our supervisory staff, owners and their partners who also lay masonry. This gives us a working force of approximately 2,000. With the information which we have we are doing approximately 70% of all Masonry Construction in the Municipality of Metropolitan Toronto and 98% of apartment projects.

All of the employees of the ninety-five members of our Association belong to either Local #1 or the Bricklayers Masons Independant Union of Canada or Local #1 of the Bricklayers Assistants Union. Their unions are recognized by the Ontario Labour Relations Board and our members have had a collective agreement with these unions since 1965.

DENIED FREEDOMS

We have had the opportunity of reading Agreements entered into, and presently exist between:

- a) Metropolitan Toronto Apartment Builders' Association & Toronto Building and Construction Trades Council.
- b) Toronto Construction Association & Toronto Building Trades Council.

It is the concern of our members that in these two Agreements the Builder or General Contractors are in fact bound to use only Masonry Contractors whose bricklayers and labourers belong to a certain union for Commercial, Industrial and Institutional and Residential Masonry Work. Whereas our members can only do Masonry Work for those Builders and General Contractors who are not attached at all to a certain union. In Agreement a) we are recognized, but only to do Residential Masonry Work and not the Commercial, Industrial and Institutional work, whereas the Masonry Contractors employees of the other union can freely do all segments of masonry work mentioned.

In Agreement b) we are not recognized at all.

SOLUTION

Agreements a) and b) are types of an Agreement that the City of Toronto had previous to 1971 which read under the heading of Workmans' Rights:

'In the case of a contract for the repair, construction or alteration of any buildings, erection or structure, swimming or wading pool, the contractor and his subcontractors, shall be in contractual relationship with Unions affiliated with the Building and Construction Trades Council of Toronto and Vicinity.'

Which presently reads

'Where the contractor is in contractual relationship with a union in the Metropolitan Area *recognized by the Ontario Labour Relations Board* as the bargaining agent for the relevant workmen during the performance of a contract shall be the rate set out in the collective agreement and where there is no such contractual relationship the rate of wages shall be the rate set out in the Fair Wage Schedule as amended from time to time.'

This is the type of legislation we respectfully recommend to the Royal Commission for their report to the Ontario Government and citizens.

CLOSING REMARKS

We have had the opportunity of reading the brief sent to the Royal Commission by Mr. John Meiorin, of the Bricklayers Masons Independant Union of Canada, Local #1 and Bricklayers Assistants, with reference to boycotts and harassments from Toronto Building Trades Council, we can only say in brief, that their dilemma and denied freedoms are ours also.

We would be pleased to supply any other information you may require in regard to our Association or individual members.

Thank you for giving us this opportunity to express our views to the Royal Commission.

Yours truly,

Leonard Corrado,
Manager, M.C.A.T.

A. DiRocco,
President, M.C.A.T.

APPENDIX I

The Building and Construction Trades Council of Ottawa, Hull and District

The Building and Construction Trades Council of Ottawa-Hull and District (hereinafter called the Council) is a Council of construction trade unions having jurisdiction in the Eastern Ontario and Western Quebec Regions. The unions comprising the Council are as follows:

Carpenters, Local Union 93	Plasterers and Cement Masons, Local Union 124
Carpenters, Local Union 2041	Bricklayers, Tile and Terazzo, Local Union 7
Elevator Constructors, Local Union 96	International Brotherhood of Elec- trical Workers, Local Union 586
Asbestos Workers, Local Union 58	Iron Workers, Local Union 765
Operating Engineers, Local Union 793	Painters, Local Union 200
Millwrights (Kingston Local)	Teamsters, Local Union 91
Plumbers, Local Union 71	Teamsters, Local Union 230
Sheet Metal Workers, Local Union 47	

The elected officers of the Council are the following: President – Jean Guy Denis (Plasterers and Cement Masons) Vice-President – Raymond Guertin (Sheet Metal Workers).

Many of the problems confronting construction trade unions generally throughout Ontario are also experienced by the unions comprising the Council; however, because of the fact that there is considerable mobility back and forth across the border between Ontario and Quebec, the Council

Unions experience severe problems not experienced by locals operating solely within Ontario. The mobility of labour is primarily that of Quebec residents working in Ontario – the converse situation does not exist to any great degree due to the peculiarities of the Quebec Labour situation, which, it is appreciated is perhaps outside the jurisdiction of the Royal Commission. Suffice it to say that individuals associated with the unions comprising the Council are encountering severe problems obtaining employment in Quebec regardless of the fact that many actually reside there.

The Ottawa area construction scene has over the past several years contained a large number of Quebec based construction companies. The Council does not take the position that these companies should not be permitted to operate in Ontario but does suggest that some sort of registration system be developed requiring them to register here and file details of the names and addresses of their head offices and boards of directors. While many collective agreements have been negotiated with these companies, various problems have been encountered in the enforcement of the terms of these collective agreements. One particular problem that has been encountered over and over again is the problem of serving summonses and subpoenas on these companies and their officers. It is appreciated that under various provincial statutes, companies incorporated outside of Ontario are required to obtain extra provincial licences before commencing operations here; however, it is the experience of the Council that these requirements are neither being complied with nor enforced.

Of greater concern than the foregoing is the problem being encountered in the Ottawa area as a result of Quebec based workers not possessing sufficient trade training and qualifications and competing here with qualified tradesmen. It is submitted that some minimum standards should and must be applied. This particular problem would be overcome by the Province adopting the practice of compulsory certification of all trades and, of course, enforcing such compulsory certification.

Formerly, this latter problem was to some degree controlled by the Industrial Standards Act through the co-operation of the Industrial Standards Branch and the local unions. This Act, to-day, is not being applied to any great degree and in its present form is of little assistance.

Mention has already been made of legislation that is not being enforced by the Province. It is the Council's opinion, that generally speaking legislation does exist whereby, if enforced, many of the problems being encountered here could be solved, or, at least, controlled to some degree. For instance, The Apprenticeship and Tradesmen Qualification Act and Regulations, if diligently applied and enforced, would be an excellent vehicle to

ensure that only qualified tradesmen are performing work requiring acquired skills. The Act provides for the establishment of 'joint advisory committees' to assist in the administration of the Act; however, in this area at least the joint committee is ignored and in practice has a very unimportant role to play. There seems to be a real lack of co-operation in this regard on behalf of the Ministry of Universities and Colleges.

As is well known, there are several Ontario statutes dealing with labour relations as well as employer-employee relations generally. It is the Council's view that the Legislature should make an effort to consolidate these statutes where possible and practical into a 'labour code' along the lines of the Dominion Labour Code. Of greater importance would be the placing of all the statutes under one governmental arm so that the administration and enforcement of same would be uniform and perhaps more diligent than at present. In the event that it is not practical to consolidate all of the present labour statutes, as a minimum requirement, those statutes dealing with the construction industry should be consolidated.

The above problems are of a general nature, but nevertheless are of great concern to this Council.

SPECIFIC PROBLEMS

There are many specific problems and areas of difficulty which we would draw to your attention. These are set out on the following pages.

Piecework

The Council appreciates that to some extent it has a vested interest in not being favourably inclined towards the concept of piecework generally. However, the Council wishes to stress that it exists with a view to protecting and representing construction employees and its experience with piecework has demonstrated beyond any doubt that individuals working on a piecework basis are not serving themselves or the community, or for that matter, the contractor, in the long run.

All too often, however, piecework is resorted to by contractors not simply wishing to avoid the usual obligations and requirements placed on the contractor under collective agreements, which is quite often the case, but is resorted to with a view to exploiting the worker. In most instances, piecework is employed by the contractor with a view to doing away entirely with the employer-employee relationship and the pieceworker is dealt with as though he was an independent contractor. This usually results in income tax not being paid, workmen's compensation charges not being submitted,

workmen's compensation benefits being lost, Unemployment Insurance premiums not being paid, Canada Pension Plan payments not being made, vacation pay benefits being lost, and fringe benefits which other employees receive not being obtained, and generally results in the worker not using most of the social legislation benefits designed to protect him. Serious problems are now being encountered here by numerous workers who have been employed as independent contractors (pieceworkers) and on whose behalf no income tax has been deducted by the contractor nor paid by the pieceworker. The Department of National Revenue is reassessing several of these persons some of whom probably considered that they were not independent contractors but employees.

It may be argued by those who support the pieceworking theory that this system rewards the skilled man who is prepared to work hard. This argument, of course, stands up only if the worker is not exploited and only if his work habits do not lead to a tendency to get the job done simply to move on to the next 'piece.' The Council's experience has been that piecework generally results not only in the exploitation of the worker but also, and just as important, in the job not being done properly and safety on the job, both while under construction and after completion, is a matter of great concern to the Council as well, of course, to the ultimate consumer. To a large extent safety considerations and measures are virtually non-existent on projects involving piecework to any substantial degree because of the multiplicity of employers and the lack of any common direction.

It is recognized that it does not necessarily follow that pieceworkers become independent contractors. It is possible that a man can be a pieceworker and, at the same time, an employee. Again, however, the Council needs only to look to its experience in this field to come to the conclusion that piecework is simply not compatible with an employer-employee relationship. The Council wishes to state quite clearly that it is not opposed to new firms being formed; however, the Council's experience is that very seldom, if ever, does a firm ever result from a man doing piecework.

Province-wide Locals

Some locals have recently been established with a view to representing employees employed throughout the Province with respect to a certain trade, sub-trade, or particular kinds of work even where in certain areas these persons or this particular kind of work has traditionally been within the jurisdiction of one or more particular established union.

The Ontario Labour Relations Act recognizes certain peculiarities in the construction industry that distinguish it from other industries and to this end has adopted the concept of area certifications.

It is submitted that the Ontario Labour Relations Act should be amended to provide that where in a particular area one or more unions have traditionally represented a certain trade or type of work, that these unions be given precedence over the province-wide local in circumstances where there is a contest for the right to represent such employees.

Board Examiners

From time to time the Ontario Labour Relations Board appoints examiners to inquire into various matters in connection with applications before the Board and to report to the Board thereon.

Quite often, these gentlemen do not possess any expertise or experience in the construction field and it is submitted that their reports are quite often of little assistance to the Board and often miss the point entirely. Too much emphasis, for instance, in applications for certification, is placed on what a particular employee was doing on a particular day. Sometimes the examiner's inquiry is held months after the date of the application for certification and it is usually impossible to determine what a particular man was doing on a particular day or, for that matter, in a particular week.

The appointment of experienced construction personnel as examiners in the construction area is essential.

These examiners, it is submitted, should also be clothed with more authority than they now possess so that when they inquire into such things as who was an employee on a particular day, they are not left to the whim of the employer as to what evidence they may be permitted to see. Rather than be classified simply as an examiner, they should rather be classified and clothed with the powers of an investigator.

An example of how these examiners can be frustrated in their examinations because of lack of powers can be seen in a case now before the Ontario Labour Relations Board involving an application for certification by Carpenters Local 93 concerning the Delzotto group of companies. In that case the Minister caused an inquiry to be made under the Employment Standards Act and came up with evidence to the effect that company 'A' was the employer. The examiners' investigation or examination concluded that this company was not the employer. As previously mentioned, this Delzotto case is presently before the Labour Board and no final decision has been made.

Associated or Related Businesses

Of great concern to the unions representing employees in the construction industry is the recent trend by many employers to operate their businesses through a series of companies, sometimes even exceeding 100 in number.

In far too many instances the employees and indeed, even the foreman and superintendent do not know the company by whom they are actually employed. Usually an employee will be aware in a general way that he is employed by the, for instance, 'A, B, C, group' but quite often they are not able to identify which particular company in the group is the actual employer. All too often the 'employer' is not in point of fact an employer in the usual sense but is simply a shell on whose books the men are listed as employees.

A related problem is found in situations where a new company is formed to avoid the effect of certification upon an existing company thus sometimes defeating the purpose of certification. This also occurs where company A, for instance, has entered into a collective agreement and wishing to avoid the effects of same, forms a new company – i.e. company B. Another related problem arises where one company that is paying Workmen's Compensation premiums will form a new company to avoid a bad accident record and the consequences which follow therefrom.

The Ontario Labour Relations Act makes an attempt to deal with such situations; however, it is submitted that the Act does not go nearly far enough.

Section 1, subsection 4, of The Labour Relations Act provides as follows:

'Where, in the opinion of the Board, associated or related activities or businesses are carried on by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, under common control or direction, the Board may treat the corporations, individuals, firms, syndicates or associations or any combination thereof as constituting one employer for the purposes of this Act'.

However, nowhere in the Act is there any vehicle whereby the employees can directly seek a declaration to this effect. In other words, the Board exercises its powers under this section only when the issue arises as a collateral issue in an application made to it under some other section. The section is helpful in some instances but falls far short of accomplishing its purpose. For instance, union A might obtain a certificate regarding company B and then find that company B has phased out or discontinued and company C formed. (It is assumed here that company C is not a company to which there has been a 'sale of the business' of company B). It is submitted that a union should have the right at any time to bring an application to the Board for a declaration that two or more companies are related employers and, in particular, a union holding a certificate should be given an opportu-

ity of applying for a declaration that its certificate should be amended to add company C as the employer.

The Labour Board has laid down guidelines for determining whether a particular company is a 'related or associated company' and it is submitted that these are unrealistic in that all too often the union is faced with an impossible evidentiary problem since it is not privy to the relevant information. The tests which have been laid down by the Board are as follows:

1. Common ownership or financial control;
2. Common management;
3. Inter-relationship of operations;
4. Representation to the public as a single, integrated enterprise;
5. Centralized control of labour relations;

The Board places the onus on the applicant union which onus, as previously stated, the union is quite often not able to meet. It is submitted that the Board should have and exercise the right to require the named company or companies to appear before it and produce the relevant information and be subject to cross-examination thereon.

In situations where the union is aware that possibly one out of a group of companies is the employer but is not sure which one, it is forced to name all companies and then is accused of setting out on a fishing expedition. This is putting the union and the employees in an impossible position not to mention the serious financial implications to the union and its members.

It is significant to note that the Employment Standards Act makes an attempt to regulate several facets of the employer-employee relationship and to this end spells out what information must be supplied at the time wages are paid. However, there is no requirement that the name of the employer be set out.

In many instances, it should be pointed out, the employees are paid by a payroll company and thus cannot conclude therefrom the identity of the actual employer. It may be good business practice for an employer or employers to utilize a payroll company; however, there should be a minimum requirement that the name of the real employer appear on the cheque or cheque stub.

The issue as to the identity of the employer is extremely important and accordingly, there should be some vehicle by which an application can be made to the Board for a determination of the issue. A separate application under Section 1, subsection 4 is part of the answer but does not solve the entire question. Some requirement must be placed on the 'real employer' to advise the employees of its existence either by posting a notice to this effect or by reference being made to it in its payroll.

An employee who does not know the identity of his employer is

deprived of the benefit of almost all provincial and federal legislation dealing with labour relations and employer-employee relations generally. Some examples of the problems that may be encountered are as follows:

1. The union is not able to file an application for certification since it cannot name the employer.
2. No proceedings for non-payment of wages can be taken under the Master and Servant Act.
3. Mechanics Liens cannot be filed.
4. The Workmen's Compensation benefits cannot be claimed.
5. Unemployment Insurance benefits cannot be claimed.
6. No benefits under the Employment Standards Act can be effectively claimed.
7. Canada Pension Plan benefits may be lost.
8. Benefits under The Bankruptcy Act may be lost.

In summary then, a whole new approach should be adopted when dealing with the question of related employers or cases where the identity of the employer is unknown. Far too much emphasis has been placed on the adversary system. It is submitted that these matters should be dealt with by the legislature and not left up to the unions or the employees to enforce the law.

Successor Rights (Section 55 – Ontario Labour Relations Act)

The Ontario Labour Relations Act attempts to deal with the concept of the successor employer and again it is submitted that to a large extent the provisions of the Act are inadequate. Too often, the effects of certification are avoided by a 'sale of the business'. Again, as in the preceding matter, the burden of proving a sale of the business is placed on the Union and again far too often the Union cannot proceed since it is not privy to the relevant information. It is submitted that in a case where a sale is alleged, the Board should have the power to demand full disclosure from the employer or companies involved once a prima facie case is made out by the Union. In other words, some better system than the mere adversary system must be applied to this type of situation. A reading of the section would appear to give the Board powers to obtain the necessary information; however, it is submitted that the Board has failed to use these powers.

It is also submitted that the Section as it presently stands is deficient. It states that until the Board otherwise declares, the employer to whom the business is sold is bound by any Collective Agreement to which the vendor was a party. However, no vehicle is clearly set out by which the Union can apply for a declaration that the purchaser is in fact a successor employer.

In any event, it is submitted that in fact, a sale of the business may only

be one of many ways in which a business can be wound up under one name and commenced under another. There are in the construction field many companies with little or no assets which, rather than sell their business, need only discontinue the existing company and form a new one. Again we would point out a problem which is being encountered all too frequently – i.e. a company may have a very bad accident or safety record and to avoid double assessment under the Workmens Compensation Act, simply winds up the company and forms another one thus avoiding the burdens of the Act. The section should be extended to cover these circumstances.

Enforcement of the Collective Agreement

Basically, the Collective Agreement is enforced by means of the grievance and arbitration procedures contained therein or as deemed to apply by the Ontario Labour Relations Act. Generally speaking this system is adequate.

However, there are instances where the system breaks down such as the situation where an employer completely disregards the agreement.

One such case has been frequently experienced here in Ottawa in the construction industry concerning provisions in Collective Agreements requiring an employer to hire only employees who are union members and/or requiring an employer to sub contract work only to such sub contractors who also are parties to collective agreements with the Union. Grievances can, of course, be filed; however, quite often the project is completed by the time the matter is fully arbitrated.

Because of the Rights of Labour Act, no Court action can be proceeded with to enforce the Collective Agreement or to obtain an injunction. The grievance remedy is, therefor, inadequate in this type of situation.

It is submitted that one possible solution is to add to the Ontario Labour relations Act a provision allowing a party to a Collective Agreement to apply in a case of an emergency to the Ontario Labour Relations Board for a speedy determination of such disputes. The burden of establishing urgency should, of course, rest with the grievor.

Applications to the Ontario Labour Relations Board by 'Strangers to the Proceedings before the Board'

The Board has adopted a policy of not hearing 'strangers to a proceeding'. It is submitted that such a practice can and has led to the possibility of frauds being perpetrated upon the Board. An example of such an application is set out in the Board's reasons for decision in file number 2618-72-R. A copy of this decision is attached as Schedule 1 together with the application itself.

It is accordingly submitted that the Board should not adopt the very

technical approach it in fact adopted in this case and has adopted in similar cases. This problem could, of course, be overcome by giving to 'strangers' some right to apply to the Board for reconsideration of any of its decisions affecting such 'strangers'.

In this regard perhaps a general comment should be made that there is a growing tendency in the Labour Board to adopt far too technical an approach generally in matters which come before it. It is submitted that the Board is not a Court of Law and that it should not conduct itself as one in the sense of becoming too technical. Over the years several practices have been developed and followed but for one reason or another these practices have not been incorporated into the Act, the Rules, or the Regulations (e.g. – age of membership applications; rights of cross examination of parties such as interested employee petitions). In a recent case involving a local construction Union an application was dismissed on the basis that the original membership evidence was not filed, but rather xerox copies of same were filed.

Surely the Board should be adopting a more liberal approach and should spell out any of its procedures that failure to comply with might result in an application being dismissed.

Applications for consent to prosecute under the Ontario Labour Relations Act and Enforcement of Labour Laws Generally

Generally speaking, the enforcement of the provisions of the Ontario Labour Relations Act and most other labour legislation is left up to the employer, the Union, or the employee affected by the violation of the Act by another.

It is submitted that the Ministry of Labour itself should assume the obligation of policing the Labour Statutes.

The Ontario Labour Relations Act provides certain criminal sanctions for breaches of its provisions but no prosecutions are laid until the Board issues a consent to prosecute. A more effective enforcement of the Act, it is submitted, would follow from a system whereby a complainant could lay a complaint with the Ministry in the same manner as an information is laid under the Criminal Code.

In addition, it is unrealistic to require the complainant to finance and personally prosecute the offences. This, it is submitted, should be the responsibility of the Ministry of Labour.

All too often, legislation is drafted without any regard to the problems of dollars and cents. It is unreasonable to assume that a small Local would be willing to spend up to \$2,000.00 to obtain a conviction against the party who

violates the provisions of the Act when all too often it is impossible to obtain a conviction and, when obtained, the fine is completely meaningless. The Sheet Metal Workers Union encountered this very problem several years ago involving a company by the name of Alexander Metals.

Picketing

The right of a Union to picket has been recognized for years. However, the Courts have shown a tendency to severely limit this right.

In many instances, picketing that is otherwise lawful has been so severely limited in numbers and otherwise so as to virtually render it ineffective. The Courts have also developed the doctrine of secondary picketing, a doctrine, which if its present extension continues will result in picketing being done away with entirely.

It has also been held in various decisions of the Board that clauses in a Collective Agreement to the effect that employees shall not be deemed to be on strike when refusing to cross a lawful picket line are without effect as they are in conflict with the provisions of the Act concerning no strikes during the term of a Collective Agreement.

It is submitted that the legislature should enact legislation as part of the Labour Relations Act extending and clearly setting out the rights to picket and to respect other lawful picket lines.

The common law has not been able adequately to deal with picketing situations and to a large extent the question as to whether or not picketing is to be permitted is left to the whim of a particular Judge hearing the matter and all too often such Judge does not possess a sufficient understanding of labour relations law.

Conclusions

The hearings conducted by the commission have, of course, generated a great deal of press some of which has already resulted in criticism of existing practices as well as suggestions for change.

The 'hiring hall' concept has received some publicity and certain possible evils have been brought to light and, in particular, favouritism of employees and certain employers has been shown. The council recognizes the potential for abuse; however, it should not automatically be concluded that because of abuses in the past, by certain individuals, the system is unworkable. On the contrary, the system has worked well and is working well in this area. The lack of any objection by the construction workers in this area is alone sufficient proof of the fact that the system works.

More so than in any other industry, the construction industry requires

an organized pool of workers from which employers may draw. The hiring hall, it is submitted, fills this bill.

If the Legislature feels obliged to control such hiring halls, that is one thing, but to do away with them because of some abuses by a few individuals would be a mistake.

It cannot be forgotten that a few publicized abuses involving a couple of unions does not mean that the abuses are widespread. Surely, the government can take proceedings against the offenders without prejudicing the innocent parties.

The press has also suggested that specialized committees composed of accountants, financial advisors, actuaries, lawyers, and other professionals be used to administer the various welfare and pension plans set up under collective agreements. At first glance, this seems very logical. However, one cannot lose sight of the fact that such a committee would be an extremely costly affair completely unwarranted by the size of most of these welfare or pension funds. Also, as of this time, all such funds, at least in this area, employ experienced administrators who must account to the trustees and to the employers and employees.

It is too smug for someone to state that a plumber or bricklayer is not sophisticated enough to participate in the administration of these plans. With respect, it is submitted that these tradesmen have a contribution to make as trustees as the plans are usually geared to their peculiar needs.

It is, therefore, submitted that the present set-up which usually involves a committee of trustees with a professional administrator advising and administering the fund, is quite sufficient. Again, the fact that there may have been abuses does not automatically mean that the status quo should be tossed out.

The existing common law and statute law, both civil and criminal, is quite adequate to deal with any mismanagement of trust monies.

The commission has served to make public, in a very dramatic way, many abuses in the construction industry. Abuses of the law have been shown both on the part of the employers and some unions. However, it is submitted that the problem is much larger than simply the question of abuses by individuals. It is submitted that many of the problems and the violence in the construction industry has resulted from the following:

1. The Government's failure to enforce existing legislation;
2. Inadequate legislation;
3. The existence of the criminal element in the industry, resulting in collusive agreements and arrangements between some employers and some so-called 'unions'.

The council is appreciative of the work carried out by the commission and is appreciative to Mr. Albert Roy for his insistence that Ottawa be included within the scope of the inquiry. The inclusion of Ottawa has served to focus attention on the Ottawa-Hull scene at a time when violence in the industry was just becoming an important factor. Hopefully, public exposure will serve to keep the undesirable element out of the local construction scene.

The council has one fear at this time and that is that the abuses of some so-called unions may result in legislation penalizing all bona fide unions and thus penalizing those employees who are prepared to work and operate within the law. Hopefully, this will not occur.

All of which is respectfully submitted.

Jean Guy Denis – President
Building and Construction Trades Council
of Ottawa-Hull and District

SUPPLEMENTARY SUBMISSION

This letter is intended to supplement the Brief submitted to you on behalf of The Building and Construction Trades Council of Ottawa-Hull and District and, in particular, with respect to the question of 'hiring halls' briefly alluded to on page 20 of that Brief. Since the time of submitting the Brief the question of hiring halls has received further comment in the press and, accordingly, the Council feels that certain relevant matters should be immediately brought to your attention.

There are approximately 400 construction locals throughout Ontario and, therefore, something slightly less than 400 hiring halls. Your enquiry heard evidence with respect to a few of these halls and, no doubt, other investigations have been carried out; however, the council wishes to stress the danger of any general conclusions being reached on the basis of anything but the most complete evidence.

You have been quoted in the newspapers as follows – 'One of the glaring illegalities that manifested itself in our hearing was the abuse of that hiring hall system.' You have also been quoted to the effect that you and your advisers were considering an impartial, possibly computer backed, job allocation system for unemployed union workers so union officials will no longer have a so-called commodity to sell. It is submitted that the present day systems employed by unions are for the mutual benefit of the workers and the employers and that, as is often the case, a few bad apples are tending to 'spoil the whole barrel.'

The concept of the hiring hall has always been at the heart of the labour movement in the construction industry in this province. The systems employed by the individual hiring halls vary from one union and from one location to another depending on the needs of both the persons seeking employment and the employers seeking workers. Accordingly, it is dangerous to generalize when talking of hiring halls. For greater clarity, the following is a list of some of the types of hiring halls in use in this province:

- (a) strict numerical order of lay-off and return to work – with or without recall provisions.
- (b) numerical order of lay-off but return to work at whim of employer.
- (c) regular order of lay-off registration – return to work on a 50-50 basis;
- (i) first choice by employer and
- (ii) choice by union
- (with one week to three weeks minimum employment requirement before being dropped from listing)
- (d) Regular order of lay-off registration, return to work according to qualifying needs (employer-employee)
- (e) Voluntary registration following lay-off-recalls-no recalls. Freedom by member to seek and find work with obligation to report return to work through union office and, in some cases, no obligation to report to office if return to work.

We would be prepared to discuss these and other systems with you.

It should also be noted that many hiring halls, if not all, are the result of negotiations between employers and the unions concerned and are quite often tailored to the particular needs of the relevant trade. To a large extent the Union and the contractor must co-operate in the supply and hiring of men. For instance, some trades require skills of a high level and a prospective employer usually wishes to reserve to itself the power to accept only qualified personnel. Qualifications are not the only criteria prospective employers may look up to – there are several other lawful and realistic considerations which are relevant such as the employer's possible past relationship with a particular employee and the fact that a particular employer may consider it impractical to fit the employee into his system of operation (these considerations, of course, work both ways). Accordingly, it is not possible to have a situation where men are sent to an employer simply on the basis of a numerical or computer kept list.

The hiring hall of a local representing skilled tradesmen will most certainly use a system quite different than that employed by a Union representing unskilled persons or persons not requiring skills of such a high degree.

The council is very fearful that excessive government intervention in hiring halls could only result in arbitrary rules being laid down which would affect not only the efficiency of the contractor but would most certainly be to the detriment of the workers and would also seriously undermine the free collective bargaining between a Union and a contractor which is, of course, sanctioned by labour relations legislation.

Also, it cannot be forgotten that the system used by a particular Union hiring hall is not the creation of a couple of individuals but in the case of any bona fide Union is the result of the wishes of a majority of the members of that Union. The business agents and other Union personnel involved in the administration of the hiring halls are well acquainted with their Union membership and this knowledge results in the appropriate persons being sent to a particular employer.

Again, the council is prepared to accept the possibility of potential for abuse – however, the system has survived for years in Ontario and has not been a matter of concern for either the workers or the contractors themselves. This lack of conflict should be considered in weighing the abuses brought to the attention of the commission. The abuses of favouritism and bribes are not common to the Unions and the construction industry at large and the recent notoriety has been centered around a few unions which are not bona fide unions in the first place.

Labour legislation in Ontario and throughout Canada has recognized the validity of the union shop and closed shop agreements. In the construction industry which, of course, cannot be equated to other industries because of the need for mobility of labour and the short duration of projects, the union and closed shop principles are accomplished to some extent through the hiring hall practices.

There is no magic formula for the successful operation of a hiring hall. However, some factors and skills are essential to those persons charged with their administration – i.e. experience in the particular trade – knowledge of the area concerned – knowledge of the companies concerned – knowledge of the supply of labour – and, needless to say, co-operation with the employers concerned. The council feels that to take the hiring hall from the Unions and place it in the hands of a government agency would destroy what has taken Unions and employers to build up through years of collective bargaining.

There is too often to-day a tendency on the part of government to intervene in areas formerly controlled by the private sector. There is also too often a tendency to think that because the body is a government one there will be no abuses. As pointed out in our earlier brief, a good deal of

existing legislation is not being enforced. The council feels that had such statutes as The Industrial Standards Act, The Employment Standards Act, The Apprenticeship Act, The Labour Relations Act, and other labour and criminal legislation been enforced, there might have been no need for the commission in the first place. We would also point out that there has been some recent examples of Ontario Housing Corporation personnel involved in corrupt practices.

The Manpower Centres throughout Canada have failed to fulfil the manpower requirements of employers in most fields of work. Accordingly, Government intervention for the sake of intervention is not the answer. A specific example can be found in the Province of Quebec where experience over the past few years has proven that The Canada Manpower Centres and Quebec Manpower Centres have not been able to effectively replace the Union hiring halls and, consequently, the Union hiring halls have been the employer's best source of labour. The council does not wish to rely too heavily on the construction industry practices in Quebec except to point out that Government intervention is not necessarily the answer. There is a statute in Quebec by the name of Employment Bureaus Act – Chapter 147 R.S.Q. 1964. We have reviewed this Act and note that it anticipates the continuation of Union hiring halls. Our information is to the effect that, as above stated, the Union hiring halls are still the main source of employment of employees.

The council does not want to create the impression that all construction employers favour the hiring hall system. It is relevant, though, to point out that most of the employers who are opposed to it are those who are opposed to unions in general.

The council feels that the hiring of persons and the supply of Labour cannot be handled by a computer or by inexperienced personnel. Both concepts involve the need for human relations by experienced people.

Government intervention in this matter may lead to the growth of private employment agencies which will in turn lead to the diversion of wages that should go to the employees concerned to the pockets of those persons supplying the labour. Problems are already being encountered here in Ottawa with respect to these employment agencies – i.e. it becomes very difficult to determine just who the workers are employed by – i.e. the employment agency or the particular contractor for whom they are performing services.

In conclusion, the council submits that what is required is generally more action by the Government to enforce existing labour and social legislation and not government take over of something which has been

efficiently handled by the private sector. The council is as concerned about abuses as is your commission and looks forward to those individuals and companies involved in illegal and corrupt practices being prosecuted and is also hopeful that the non bona fide unions will be put out of existence.

The council would have no obligation to some form of limited government requirement with respect to hiring hall practices and, as well, would have no objection to government inspections, and perhaps penalties for abuses. However, it is submitted that any government control should not exceed a 'policing role.' In other words, the nature of the industry calls for flexibility and any form of government control would destroy this flexibility.

All of which is respectfully submitted.

Jean-Guy Denis

President of the Ottawa-Hull Building and Construction Trades Council

APPENDIX J

The Construction Labour Relations Association of Ontario

INTRODUCTION

The construction industry is unlike any other. It is best described by the word 'instability.' It would be almost impossible to single out one firm and declare that it was an 'average' construction company; for there are few norms. The amount of business carried by any given company can vary widely over the course of a year. Today's winning bidder is tomorrow's loser. Today's full employment is tomorrow's layoffs. The labour force is fluid and mercenary. Tenure of employment is brief, and loyalty is almost unknown. Labour takes what it gets from the hiring hall. And so does management. Workers go where the job is, then on to the next one.

Most of the problems of the construction industry can be attributed to this instability and the measures taken to correct it, which in turn have given rise to further problems. The role of the Construction Labour Relations Association of Ontario has been to tackle one problem in particular – the chaotic bargaining state that exists in the construction industry in this province. CLRAO seeks agreement for some form of rational bargaining or, failing agreement, imposition of orderly bargaining procedures by the government. Our suggestions to the Commission are offered in light of this objective.

EMPLOYMENT RELATIONSHIPS IN THE CONSTRUCTION INDUSTRY

Warren K. Winkler, in his thesis entitled 'A Study of Labour Relations

Law in the Construction Industry in Ontario' (1964), wrote:

'The construction industry is characterized by the fact that job organizations and working crews are rapidly formed and liquidated depending upon the number of jobs that an employer has underway. Only a nucleus of key personnel are maintained in employment in the interval between jobs. Workmen are generally hired on a job-to-job basis depending upon the amount of work under contract. During any given work year a workman may be employed by several contractors on several job sites and, as a rule, no permanent employment relationship is maintained. Each craft comes on to a job and performs its portion of the work at different times, increasing to a peak number of workmen and decreasing as the job proceeds, perhaps disappearing altogether for a time and returning to finish tasks at different points in the construction process. Each craft may peak at a different time since the production process invariably requires different crafts at different times. Workmen are more attached to their trade in a particular geographical area than to any employer.'

John H.G. Crispo, co-editor of 'Construction Labour Relations' (1968) together with Carl Goldenberg, wrote:

'The tenuous nature of the typical employer-employee relationship greatly influences the attitudes of both contractors and workers. Unlike employers in most other industries, many contractors feel no particular obligation towards most of their workers, who in turn offer no real loyalty to them. These attitudes and the factors which underlie them explain many of the industry's problems.'

The situation as described in the foregoing quotations is unlikely to undergo any marked change in the foreseeable future. The nature of the industry is unlikely to change to the point where many individual contractors will employ significant numbers of work people on a year-round basis.

This we must accept. However, we do feel that there are changes that can be made which would have the effect of making the construction industry a more stable market place for all concerned – contractors, construction workmen, purchasers of construction and the public.

STRUCTURE OF BARGAINING

The present bargaining structures and the multiplicity of agreements create and encourage instability in the construction industry.

There is ample evidence to demonstrate that, with more than 200 pattern-setting agreements in Ontario, the results of negotiations for renewal of these agreements bear little or no relationship to current economic factors.

Generally speaking, there has been little progress in Ontario towards (a) rationalizing the bargaining structures, and (b) reducing the number of bargaining units. In fact, with the trend to more specialized types of contracting (e.g. forming, waterproofing, resilient floor laying, precast) construction bargaining may become more fragmented as the industry attempts to adjust to rapidly changing technology.

It is, therefore, safe to assume that in the short term, no significant changes will be brought about except by legislative or regulatory action. To this end CLRAO is in agreement with proposals for Wider Area Consolidated Bargaining that have been suggested to government by the Construction Industry Review Panel. We understand these proposals have been discussed with the Commission, and, therefore, it is not our intention to detail them here. However, we would be willing to elaborate on them orally if the Commission should so desire.

We would like to comment briefly on the question of the accreditation of employer organizations.

Accreditation has the potential for being a great stabilizing influence on the industry, but this will never be realized unless the overall number of collective agreements is reduced. Accreditation alone cannot control whip-sawing and leap-frogging of settlements and wages. In anticipation of changes being made to the structure of bargaining, five changes are required to make the accreditation provisions more meaningful.

First, it must be made possible for an accredited organization to make a legal assignment of its accreditation order.

Second, the procedure for obtaining accreditation should be simplified. We would suggest that accreditation should be automatically granted when an organization can demonstrate support from 65 per cent of the unionized employers concerned or when it can demonstrate support from 35 per cent of the unionized employers concerned who employ a majority of the union members concerned.

Third, subsection 3 of Section 119 must be removed from the Labour Relations Act, since it shatters any semblance of solidarity by allowing employers to continue working during a strike or a lockout. A shutdown must be a total shutdown if it is to be at all effective.

Fourth, the various construction industry sectors established by the Labour Relations Act (Section 106 (e)) must be defined. We wish to suggest the following definitions for each sector:

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ROADS

All roads and parking lot construction including paving, curbs, sidewalks and other work incidental thereto.

SEWERS, TUNNELS AND WATERMAINS

All sewer and watermain construction outside the foundation walls of a building including any necessary tunnels and other work incidental thereto.

HEAVY ENGINEERING

Subways, bridges, underpasses, overpasses, wingwalls, large retaining walls and other work incidental thereto.

INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL

All segments of construction of industrial, commercial and institutional buildings including the necessary excavations for such buildings and all work incidental thereto.

RESIDENTIAL

Residential construction shall be all work performed in and incidental to the following:

single family dwellings

multiple family dwellings

town houses and row housing

buildings where the preponderance of building area is allocated for residential occupancy.

PIPELINE

Installation of underground piping for the transmission in bulk of gas, oil, water or steam including all necessary excavations work and other temporary or permanent work incidental thereto.

Fifth, the Ontario Labour Relations Board should use flexibility in determining appropriate sectors for the construction industry, rather than adhering rigidly to the sectors spelled out in the Labour Relations Act.

CONSTRUCTION INDUSTRY REVIEW PANEL

During 1972 the Ministry of Labour brought into being the Construction Industry Review Panel made up of union and management representatives with an independent Chairman and a staff assistant. The Panel's immediate function was to assist with 1973 bargaining in the construction trades. Generally speaking it was given free rein to establish its own terms of reference and already it has made recommendations for the future conduct of labour relations in the construction industry and it is our hope that the Government will give very full consideration to the early implementation of these recommendations.

CLRAO regards the establishment of the Panel as a particularly positive step by the Ministry of Labour. No other body has greater potential for solving the problems of the construction industry. Therefore we are anxious to see the government establish the Panel on a permanent basis under the chairmanship of a person of the standing of a deputy minister. However adequate provision must always be made to ensure that the members of the Panel are fully and actively representative of the interests which they serve.

BENEFIT TRUST FUNDS

Testimony before the Commission indicated irregularities in management of some trust funds.

CLRAO believes joint trusteeship of trust funds and production of audited statements on an annual basis are an immediate necessity. But we must go further. The situation calls for a new initiative by government.

Therefore, we recommend that a Provincial Construction Benefits Council be established by legislation. The Council would have an equal number of union and employer representatives appointed by labour and management groups. They in turn would appoint an independent chairman and vice-chairman.

All payments made under the provisions of collective agreements for welfare and pension should be standardized and such payments should be made to the Council.

The Council should then establish and administer welfare and pension benefits for all trades for the province.

Some of the advantages for the construction industry would be:

1. The full portability of all welfare and pension benefits throughout the province.

2. The elimination of the possibility of the misuse of funds.
3. The elimination of the possibility of employers being able to avoid making payments.
4. The provision of better welfare and pension benefits at lower costs.

JURISDICTIONAL DISPUTES

Section 81 of the Labour Relations Act gives Ontario legal machinery for resolving jurisdictional disputes by the Labour Relations Board. However, sub-section 14 allows the disputants to agree upon a tribunal other than the Board.

As a result, many collective agreements in the construction industry in Ontario specify that disputes will be referred to the Impartial Jurisdictional Disputes Board, based in Washington.

The Ontario Labour Relations Board seldom is used to settle disputes between building trades unions in Ontario. It is suggested one reason the Board is bypassed is that its procedures are highly legalistic, expensive and time consuming.

CLRAO feels Ontario must have simple, speedy enforceable and non-legalistic machinery for the resolution of jurisdictional disputes.

We therefore suggest the unions involved in the dispute, and interested parties such as the employers, should be referred for hearing and decision to a union/employer committee appointed by the Construction Industry Review Panel. The committee would be served by an independent chairman. Decisions of the committee would be rendered in writing and would be final and binding.

FINANCING UNIONS AND EMPLOYER ORGANIZATIONS

Methods of financing unions and employer organizations seem to require clarification. The instability of the industry overall is reflected by the lack of controlled and sound financial procedures.

CLRAO believes the Labour Relations Act requires considerable strengthening in this regard. For instance, Section 76 requires the production of an audited statement by a union on request of any of its members. We feel production of an audited statement should be mandatory for both unions and employer associations and that the audit should be conducted by an independent firm of chartered accountants.

AVAILABILITY OF STATISTICS

Good work is being done by the Ministry of Labour on obtaining statistical data, but its progress is impeded by the lack of accurate sources from which to gather information.

The implementation of a centralized welfare, pension and fringe benefit scheme would provide a ready vehicle for (a) establishing a construction manpower inventory, and (b) establishing the average hours worked and the average earnings by trade and area.

These statistics are required to help combat instability, but they are not now available.

FORECASTING CONSTRUCTION REQUIREMENTS

At present no system or agency exists which attempts to forecast future construction needs – and therefore future manpower requirements – in the province. CLRAO believes accurate construction forecasts would help lend stability to the industry.

It should be noted the value of forecasts would be manifested only if major purchasers of construction could be influenced to dovetail their construction requirements so that peaks and valleys in the industry would be levelled off.

Last year the Construction Industry Review Panel was instrumental in launching a forecasting study through the firm of Peter Barnard Associates, entitled *Reducing Cyclical Unemployment in the Construction Industry*. Mr. Barnard has submitted two interim reports, *Feasibility of Forecasting*, and *the Approach to Forecasting*. At present, he is carrying out a pilot project on forecasting in the Kitchener-Waterloo area.

CLRAO believes governments should consider now how knowledge obtained through forecasting can be applied to the industry to convince purchasers of construction of the necessity to accelerate or decelerate the construction plans, depending on the projected state of the industry.

Responsibility would fall on both the federal and provincial governments to influence the rate of construction in both the public and the private sectors at any given time in order to maintain stability in manpower requirements.

The cyclical nature of the construction industry relates as well to the number of new persons entering the construction labour force. Forecasts of construction requirements should be the basis of realistic planning by

employers, unions and government of training programs tailored to the needs of the industry and designed to achieve a balance between intake and demand.

CONCLUSION

The Construction Labour Relations Association realizes some of the points put forward in this submission are possibly beyond the scope of the Commission, considering its term of reference. Nonetheless, CLRAO also recognizes the interest of the Commissioner and his desire to obtain informed viewpoints on all facets of the construction industry.

Neither unions nor employers have made any significant contributions in recent years to the development of an atmosphere of stability in the construction industry. Our Association hopes to rectify this in part by pressing for a fair and viable means of conducting bargaining in the unionized segment of the industry.

CLRAO is rapidly approaching the position where it can claim authority to speak for the majority of unionized construction industry employers in Ontario. We feel that our viewpoint reflects the opinions of Ontario's unionized contractors and their various associations and we ask the Commission to accept our submission in this light.

APPENDIX K

Sheet Metal Workers' International Association, Local 285

On behalf of Local 285 of the Sheet Metal Workers' Union, thank you for this opportunity of appearing before you. We can well agree with some of the statements made here, that the law of the jungle prevails in some sectors of the construction industry. However, we take objection to the general tenor of the publicity coming out of these hearings, that has given the impression that the building trade unions are full of shake-down artists and gangsters. Although no one can object to the exposure of these shady elements within the industry, there was no need to smear the whole of the construction trades.

Our Local is mainly involved in residential work. That is the cesspool from which this hearing emanated, and where you will probably look for ways and means to eliminate the conditions under investigation and stop any reoccurrence. We have a few comments to make which we hope will assist you in your investigation. No enquiry into the problems of the construction industry would be complete without exposure to the workings in the home building sector. Our observations will deal with a small segment of that part of the industry where we have some organized strength.

Homes built in Ontario are mainly going up non-union today. You can be sure that this condition will not last forever, and the day will come when the home builders will be fully organized as are other parts of the construction industry. How this can be done peacefully is the natural concern of this Commission. The experiences of 1960–1961 under the leadership of Messrs. Bruno Zanini and Charles Irvine (Brandon Hall Group) would probably indicate the most undesirable of several paths to take. But or-

ganizing shop by shop is almost impossible in the construction industry, under the present set-up. We have a case before the Ontario Labour Relations Board that will be two years old in July. There are only two of the original sixteen left in the original bargaining unit. It's quite possible that within the framework of the system, that the numbers involved could have diminished to zero before the first winter was out. We are still in the process of applying for certification. After being certified, we still have the problem of getting an agreement. Because of the small numbers of employees involved in these shops, the intimidation by the employers is generally such as to scare off participation of the workers in the union once the company has been notified of our application. This, of course, is in violation of the law, but what else is new and what can you do about it? It is most difficult to prove.

A lot of things go on in the trade that are against the law. Violent acts within the industry have been given prominence. Blowing the place up is using brute force to cut down your competition. This dastardly method can be easily seen and condemned. Unfair competition can do the same thing to a business, trade or industry. By the simple expediency of classifying piece-workers as sub-contractors, we have seen violations of the Workmen's Compensation Act, the Unemployment Insurance Act, the Employment Standards Act, the Lords' Day Act and the Apprenticeship Training and Tradesmen's Qualifications Act.

Under the law in Ontario, anyone working at the sheet metal trade must be a journeyman or a registered apprentice. A sub-contractor hires men off the street, dubs them 'sub-contractor', and then absolves himself of responsibility under the Act. Is it fair that one contractor abiding by the law set down by the province should have to compete with another who makes his own rules? This seemingly small deviation from the law affects the competitors in the trade and the training of future tradesmen in the province. It is also detrimental to the unwary public, the new home buyer, who the law was designed to protect.

The results of such a policy can be seen in a few snapshots which I have here, taken while I was on the road. Expensive homes, built in exclusive neighbourhoods did not escape the slaughter of butchers working as heating installers. One of these pictures shows joists hanging unsupported, where cuts were made to accommodate heat runs and return airs from upper floors. Neither were steel support bars used, or block ends in the return air joists to make the system more efficient. Dangers to the health and safety of people buying new homes can be seen by some of the B-vent installations. These gas flues are supposed to go through the house in such a

manner as to prevent fumes from going into the house if they should somehow happen to leak. The flue here is connected through the same joist space that is connected to the furnace through the return air, and re-circulated through the house.

This is just an example to illustrate the need for law enforcement in the trade. I have spoken before about the crime of workers employed on construction without the benefits of the Workmen's Compensation Act. Why should this be allowed under any pretext? Why should a man hobble around trying to install a duct system, with his foot in a cast because 'he was not sure if he was covered by Workmen's Compensation'.

Quoting from an examiners report looking into whether or not a group of workers would be classed as employees or sub-contractors, we read his report on several of the witnesses:

28. (He does not know if he is covered by Workmen's Compensation but he has never paid for coverage by Workmen's Compensation himself. He does not pay for Unemployment Insurance coverage himself and he doesn't think he is covered for Unemployment Insurance. He said he has not paid for coverage in the Canada Pension plan yet, but he will pay for that at the end of the year).

79. (Continuing, the witness said that once he had to pay Workmen's Compensation for the year 1969, and he asked the office to deduct that from his next cheque. The deduction was made around April, 1970).

133 (He does not think he is covered by the Canada Pension Plan, nor the Workmen's Compensation Plan.)

200 (He is not covered by the Canada Pension Plan or the Unemployment Insurance Plan. He is not covered by the Workmen's Compensation Plan, but he is looking into that situation.)

258 (The witness said he pays his own Workmen's Compensation. It is not deducted from his cheque by the respondent. In addition he pays his own Unemployment Insurance and likewise those premiums not deducted from his pay cheque.)

These were the comments made at one hearing. We have not yet had the examiner's report on the current hearings, but the situation is apparently much the same, where some of the workers also were not sure if they were covered by Workmen's Compensation.

We have here a copy of a time sheet showing a 2% deduction for Workmen's Compensation. I always thought that such a practice was illegal. I also have a copy of a telegram, where the employer wanted the

man to prove that he was covered by Workmen's Compensation before paying his last cheque. I always thought that the prime contractor was responsible for seeing that the sub-contractors were covered. Here we have the sub-contractor checking up on his employees to see if they were covered while working for him. The last I heard about this matter, was that the two men involved were never paid the money owing to them. Another way of cheating men out of their money is to tell them that repairs had to be made on their work, and I'm told that this practice also prevails in other trades.

The organized sector of the construction trades does not have these problems, of course. Neither are they faced with competitors working the 7-day week. In the commercial section, some shops are already on the 36 hour week. When I was on the road, I occasionally went out on Sundays and holidays to see what was going on. It was a rare Sunday that someone wasn't working on the Lords' Day or the statutory holiday. It was once told to me that it should be the right of anyone to work those hours if they so desire. 'Maybe they work on Sunday,' the story goes, 'and take off Monday.' Maybe they do, or maybe they don't, but they surely do contribute to the law of the jungle in the construction industry.

It has also been said that piece-workers are making a big buck, and so you can't say that they are exploited for not receiving unemployment insurance when laid off, or benefits of the Employment Standards Act and so on. I say that the industry is being exploited, and that we all suffer because of these conditions. It's the breeding ground for lawlessness. Fast buck artists can be found among the men, as well as in management. Between them, they can make quite a mess. These conditions are not confined to heating installations, but are widespread in the other trades. Something should be done about these matters, if a climate is to be generated where proper business practices can flourish and proper labour-management relations developed.

The question of dual shops has often been raised by Mr. Clive Ballentine, of the Toronto Building and Construction Trades Council. We have a classic example of such a problem with one of our shops, organized the hard way. Another shop was set up within the year to operate non-union. It must have taken about six months or more, of ceaseless wrangling, to get the sub-contractor to sign another agreement covering the new shop. Two more shops were set up last year. One closed up, apparently due to our insistence that it be covered by our standard agreement. An agreement for the other shop was eventually signed. Another shop, under a new name,

has just recently been opened, which has also signed up due to a prior agreement.

If these contractors can open a shop on every corner, there should be some way to guarantee that they will be covered by the union agreement. There should be no need for the union to become entangled in legal wrangles to ensure this. Such hassles can do nothing but to further aggravate labour relations within the industry.

Thank you again for your time and attention to some of our views on the problems facing the construction industry. We hope that they will be of some value to you. We are available for any other help we can give, in order to promote our trade and the industry in which we work.

We trust that your work will bear good fruit.

Respectfully submitted (J. Kurchak)

On behalf of Local 285, Sheet Metal Workers' International Association.

The Council of Concrete Forming Trade Unions, Toronto

1. The Council of Concrete Forming Trade Unions (hereinafter called the 'Council') values the opportunity to present this brief to the Commission, and hopes that by outlining both past and present problems that have plagued the construction industry, it will in some small way promote the industry's future stability. Indeed, the main purpose of the Council in presenting this brief is to express its concern that certain segments of the labour movement and certain employers in the residential forming field have and continue to conspire to break down traditional and stable bargaining patterns in the forming industry to the detriment of sound industrial relations.

I BACKGROUND

2. The industry has been felt to pose such special working conditions and problems as to merit special legislation under the Labour Relations Act, R.S.O. 1970, Ch.232. These provisions are found largely in Sections 106-124 of the Act. The Act recognizes a distinction between residential and commercial sectors, which division recognized past industry practices, and it may be said generally, that the commercial sector of the industry controlled by large developers, commercial contractors and well organized craft unions has, until recently, known relative stability, a stability which contrasts sharply with the troubles that have been common in the residential sector.

3. Some of the problems more typical to the residential sector are as follows:

(a) The residential sector of the industry has, with a few notable exceptions, always been plagued by a large number of small scale contractors often inexperienced in business operations; the Workmen's Compensation Board lists 25,000 employers in its various construction classifications. Their numbers and fierce competitiveness makes them the subject of various practices leading often to the exploitation of their employees, whether unionized or not.

(b) Often a contractor underbids a project and thereby renders himself unable to pay his employees. Job bidding is not as carefully regulated as in the commercial sector and abuses of the system are tempting and common. In an industry only partially organized, the unionized contractors have to also concern themselves with being undercut by their non-unionized colleagues. This has led to forming contractors using corporate alternates to deal with different unions or to be 'non-union', depending on the circumstances.

(c) Contractors have also abused the procedure and practice of the Ontario Labour Relations Board to great effect. One common practice is to delay certification proceedings before the Board until the work in the area where certification is sought is complete, at which point the contractor transfers his operations out of the area and the Board refuses to continue hearing the application. There is also a history, well illustrated in the Labourers' International Union of North America, Local 183 (hereinafter called 'Local 183') brief of outright corporate manipulation of employees and also of outright falsification of essential evidence.

(d) When faced with unwelcome union organization, a contractor might sub-contract to his new corporation or employ a number of variations of this practice. With greater sophistication and the fact that most major employers are now unionized, the greatest blockade to an 'unwelcome' legitimate craft union or council of craft unions is the continuous entering into of new collective agreements with 'welcome' trade unions, now notably Local 183, which agreements meet the minimum requirements to constitute a bar to organizing new projects.

(e) Improper work assignments are another favourite device to avoid the terms of more 'expensive' collective agreements that properly reflect jurisdiction. If the work is still continuing on by the time the Board makes a decision, the contractor and the benefited union can be assured that one of the Board's major considerations in awarding the work will be the expense involved in assigning it to a particular union. The 'welcome' union is

inevitably cheaper. A notable example of this is the judgment of the Ontario Labour Relations Board in the Beer Precast case. (Labourers' International Union of North America, Local 506 (Complainant) v International Association of Bridge, Structural and Ornamental Ironworkers, Local 721, Beer Precast Concrete Limited and E.G.M. Cape & Company Ltd. (Respondents) – Board File 17338 (A)–69–JD Ontario Labour Relations Board Reports, August, 1970–P.610) The Council would like to emphasize that the legislature never intended that the Board become entrusted with regulating the cost of construction.

II THE COUNCIL OF CONCRETE FORMING TRADE UNIONS

4. It is against this background that the Council came into existence on the 8th day of March, 1967. Consisting initially of the International Union of Operating Engineers, Local 793 (hereinafter called 'Local 793'), the International Association of Bridge, Structural and Ornamental Ironworkers, Local 721 (hereinafter called 'Local 721'), the Labourers' International Union of North America, Local 506 (hereinafter called 'Local 506'), the Operative Plasterers' and Cement Masons' International Association of the United States and Canada, Local 172 (hereinafter called 'Local 172'), and the United Brotherhood of Carpenters and Joiners of America, Local 1190 (hereinafter called 'Local 1190'), its intention was to bring stability to the industry. The Council was formed to take advantage of the newly-enacted provisions of the Labour Relations Act permitting certification of councils of trade unions and was in fact certified under what is now Section 9 of the Act.

5. The Council agrees with the Report of the Royal Commission on Labour-Management Relations in the Construction Industry chaired by H. Carl Goldenberg, O.B.E., Q.C., which felt:

'Without a uniform rate there might be a continuous pressure on the wage scale. Successful bidders would be the contractors who had best succeeded in reducing wage rates and other economic conditions of employment below those of their competitors. Actually, there appears to be a situation in construction in which the technical organization of the competitive market itself is partly responsible for exerting a downward pressure on the bids submitted by competing contractors. Many of the devices developed by contractors to regulate the market and avoid instability seem to be related to this type of pressure. Ultimately also, the contingencies of incorrect estimat-

ing, unexpected delays because of climatic conditions, unforeseen difficulties in construction, or limited cash resources might force a successful bidder to attempt wage reduction. The building trades unions are one agency capable of enforcing minimum equal standards in wage rates and other conditions of employment in a competitive area.

6. The unions constituting the Council had always represented persons employed in concrete forming throughout the construction industry wherever it was organized. Jurisdiction was always clear and unquestioned.
7. The work performed by the employees covered by the Council had the historical quality of being commonly performed by the particular crafts represented in the Council. It has been held that, in the construction industry, where organization has traditionally been carried on a craft basis, great weight must be given to craft interests. (Kent Tile and Marble Co. Ltd. – 61 CLLC 1620.)
8. The Council first entered the field of residential concrete forming in 1968 and initially concluded eight agreements. It was greatly hampered in its organizational work, however, by the tactics of the Wood, Wire and Metal Lathers' International Union, Local 562 (hereinafter called 'Local 562'). With the assistance of Nick DiLorenzo who as a contractor-employer, Local 562 had little difficulty in signing men up from twenty-five companies.
9. It was later learned that Local 183 was attempting to absorb Local 562. These activities by Local 183 were directly adverse to Local 506, a Council member which according to its charter had exclusive bargaining rights with the concrete forming workers. The union that finally succeeded Local 562, the Canadian Concrete Forming Union, No. 1 (hereinafter called 'No. 1') was through Council efforts, finally disqualified on the grounds that it did not constitute a trade union within the meaning of the Act.
10. The existence of the Council definitely pre-dates the activities of Local 183 in the concrete forming field. Local 183 and its predecessor in the Council, Local 506, have implicitly conceded the jurisdictional authority of the members of the Council by joining with them in it.
11. Local 183 has established no jurisdiction in the concrete forming field except as general labourers, and any internal decision by the Labourers' International to clothe Local 183 with jurisdiction in this field, amounts to no more than an internal move. In the absence of a jurisdictional agreement with the other concerned unions, it has no significance. The gesture of

granting itself jurisdiction was little more than a declaration that it was prepared to disrupt existing relationships.

12. The employing contractors have recognized the jurisdiction of the Council in the concrete forming industry in the great many collective agreements signed since the formation of the Council in 1967. During the years of 1970 and 1971, the Council entered into collective bargaining relationships with some nineteen forming contractors and had succeeded in greatly strengthening its own organization and the protection of construction workers in the concrete forming industry.

13. There is no doubt that the efforts of the Council have advanced the lot of the concrete forming worker to a great extent in terms of the training and the developing of work skills, the raising of safety standards, the improving of workers' wages and benefits, all of which lend a stability to the industry that enhances the contractors' interests in efficiency and economy.

III DISRUPTION OF COUNCIL'S ORGANIZING EFFORTS

14. While Local 183 has not been the only disruptive force to upset the Council's jurisdiction, that local has been instrumental in undermining the Council's organizing efforts to a point where the Council virtually lost all of its bargaining rights in the residential concrete forming field as of the Fall of 1972, after having organized approximately sixty per cent of the existing concrete forming workers.

15. An earlier relatively unimportant assault upon the jurisdiction of the Council on the part of No. 1 has been well documented in the brief by Local 183 which has been prepared for the Commission. We propose to describe the activities of Local 183 in relation to the Council's organizing efforts, and to show in stages the manipulation for control over the concrete forming industry which has, for now, resulted in the present impasse.

STAGE I

The Labourers attempt a takeover

16. Even when Local 183 first became concerned with the concrete forming trade in the early part of 1969, its activities immediately took the form of a very definite disposition towards horse-trading and backroom deals, in contrast with many other trade unions in the construction industry who were actively engaged in the organization of these mainly non-union workers. The Labourers' brief to the Commission at page 19 describes the

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attempt of Local 183 to organize the already organized in the forming industry:

‘During either late 1968 or early 1969, Local 183 representatives in an attempt to achieve and maintain stability in the forming industry, had certain discussions with Simone and Zanini with a view of merging the concrete forming division of Lathers’ Local 562, with Local 183’

17. In the hearings before the Commission on February 6, 1974, the business manager of Local 183, John Stefanini, was examined as to the reasons for the desire on the part of Local 183 to take over Local 562, which at the time had organized most of the workers in the residential concrete forming field. At page 7093, Mr. Stefanini responded to this question by stating that:

‘Because the Lathers’ International Union is one of the smallest in the building trades and in our opinion, the other unions – including ourselves – would naturally complain to the building trades department, we didn’t think the Lathers’ International Union could stand this protest.’

18. The assumption implicit in this comment seems to be that the larger internationals should naturally take over the locals of the smaller internationals in order to ensure stability in the construction industry, regardless of the ability of the smaller international to bargain on behalf of its members. Of course, neither union had the jurisdiction within the building trades structure.

19. Once this course of action had been decided upon it seemed that Local 183 had very little concern for the ethical aspects of its position. At page 7100 of the transcripts taken on February 6, 1974, before the Commission, John Stefanini was asked about his local’s actions in soliciting the support of the president of the Labourers’ International in providing Local 183 with the Labourers’ jurisdiction in the residential concrete forming field against the interest of Local 506.

Q. Did it trouble you at all that having these exploratory discussions with 562 you would appear to be acting adverse to the interests of Local 506 and in respect of a jurisdiction which you did not then have.

A. We were thinking we were going under the best interests of the International because we were under the impression that the industry was organized by Local 562.

20. Many questions have been raised in the hearings before the Commission as to what Local 183 intended to provide in exchange for the bargaining rights presently held by Local 562. At page 7098 of the February 6, 1974, transcript, John Stefanini is asked:

Q. What I am puzzled about, Mr. Stefanini, and perhaps you cannot help me, I should have thought that Mr. Simone or certainly Mr. Zanini or both of them would have said to you we are representing these men; we have organized them when no one else was able to do so, and why on earth should we hand them over to Local 183? Leaving aside whether that ought to have been their answer, I am surprised it was not their answer.

A. No, it was not their answer.

21. It soon became clear that Zanini and Simone would be taken care of financially for their organizing efforts and their persuasion of the members of Local 562 to join Local 183. At page 7103 of the transcript taken on February 6, 1974, John Stefanini is questioned as to the arrangements made for Mr. Zanini and Mr. Simone:

Q. So Mr. Zanini was to have three years employment and was also to be given three months salary because he contended that he had not been paid in respect to the first three months that he had been engaged in organizing these men.

A. Yes sir.

A. And we made a commitment that we would recommend that these legitimate expenses that Local 562 could prove would be reimbursed.

22. In the evidence later adduced in the proceedings before the Commission showed that both Zanini and Simone had been offered terms of employment.

23. The next startling event in these negotiations was the meeting in Chicago, at the Regional Office of the Labourers' International Union that was attended by members of both unions, and curiously enough, by three well-known forming contractors, Mr. DiLorenzo, Mr. Orla and also Mr. Ferricutti.

24. In inviting contractors to this meeting in Chicago 'to find out who was telling the truth', all of the union-related personalities seem to be oblivious of the obvious implication of collusion with the very employers that hired the concrete workers represented by Local 562. The inference that these men were necessary to consummate the deal is inescapable.

25. To summarize, in terms of any established jurisdictional claims, Local 183 had no right to organize any of the concrete forming workers, except as general labourers in that field. When Local 183 found that Local 562 had organized most of the concrete forming work, they endeavoured to get the leaders of Local 562 to transfer their workers into Local 183 with promises to those leaders of jobs and payment of various organizing expenses. Local 183 then undermined the jurisdiction of Local 506, its sister union, which was a member of the Council at that time, and persuaded the International Labourers' Executive to turn over the Local 506 jurisdiction to them so they would have free rein of the concrete forming work.

26. However, their attempts to orchestrate a take over of the Lathers union proved to be abortive, as Zanini and Irvine decided against the takeover plan and attempted to organize the workers into No. 1.

STAGE 2

Local 183 Joins the Council

27. Local 183, which up until the maverick Canadian Concrete Forming Union No. 1 was formed, was following its own interests applied in June, 1969 to join the Council, and was accepted. Local 183's membership was seen as a positive step towards worker solidarity in the building trades.

28. At the outset, the Council was pleased with Local 183's decision to join the Council and assist the Council with its organizing efforts, but it soon became clear to the Council that Local 183 was interested in more than a simple partnership with the other Council craft unions. At the hearing before the Commission on the 6th of February, 1974, Counsel for the Commission set out the position of the Forming Council as to the strategy of Local 183, and its reasons for joining the Council:

Q. The Forming Council suggests, do they not, Mr Stefanini, that all the Local 183 did was become part of the Council and remain there for a time and then give notice, as they were entitled to do, and then go out and organize, as the Forming Council would allege, the same men, or in many instances the same men the Council already had, but the employers would incorporate a new company or take a company off the shelf which company was not in association with the Forming Council, and thereby Local 183 got all the men working for new companies and the Forming Council was left with companies which were defunct. They didn't work any longer. That is substantially what they say, is it not?

A. They may say, but that's entirely incorrect, Mr. Shepherd. And to substantiate what I am saying, we can prove that the active companies, when the industry left the Council in the concrete forming industry, were largely non-union. More than 75% of them were non-union.

Second, if there was anything like this existed, there were provisions under the Ontario Labour Relations Act for them to correct the matter.

I know that if a situation like that would be talked to us, our local would take immediate action to correct it, and they did in many instances.

And also another important fact that in the concrete forming industry a company – there is a pattern of companies coming up like mushrooms that has nothing to do with unions. Whether mostly for tax purposes or other things, and you see the notice of debt, that there were many companies went out of business since we signed collective agreement, and I think this will substantiate what I say, sir.

29. By the Spring of 1971, the Council had organized sixty percent of the concrete forming industry. However, since all of the Council contracts were to expire October 31, 1971, it became clear to Local 183 that they would have an opportunity to take over the jurisdiction that the Council, including themselves, had organized, if they were able to withdraw from the Council some time before October 31, 1971, and induce the forming contractors to voluntarily recognize Local 183 as the bargaining agent for the forming workers then organized under the Council.

30. It therefore appeared that some excuse had to be manufactured by Local 183 to provide justification for their withdrawal from the Council. The ruse that Local 183 decided upon is set out at page 35 of Local 183's Brief to the Commission:

'Local 183 strenuously objected to the Council's decision not to institute proceedings with respect to the wage deficiencies and this disagreement between the Council and Local 183 ultimately led to the latter withdrawing from the Council on July 30, 1971.'

31. A withdrawal on July 31, 1971, would give Local 183 enough time to lobby the forming contractors to recognize Local 183 as the bargaining agent for the workers under the Council, since the Council contracts expired October 31, 1971.

32. The statement that the Council was not enforcing its collective agreement with the forming contractors, was a complete misrepresentation of

the situation from a practical standpoint, and implied that Local 183 could have provided much better conditions for the concrete forming worker. To the uninformed, it might seem that the Council had not been doing a proper job of enforcing its collective agreements. However, the Council was made up of experienced unions who certainly knew how to enforce contracts, and it is submitted that in many cases the agreed upon level of remuneration and employee benefits could not be maintained because of existing conditions in the concrete forming industry for which the Council could not have been responsible. The Council in its organizing efforts, was always in the position of performing a balancing act between the desirability of enforcing the contract against a contractor likely forcing him to go out of business because of the precarious financial base of his operations and satisfying present employee needs for employment.

33. Because of a number of factors, including the surplus concrete forming labour market, the sudden proliferation of poorly financed contractors who could compete with very little capital investment, the fact that many sub-contractors were paid in stages and were in financial difficulties between these stages, and for other reasons previously mentioned in this brief, the Council (including Local 183) allowed an addendum to be appended to the collective agreements with a number of the forming contractors which stated:

It is recognized and understood by all parties to this agreement that as part of this agreement an indefinite time will be required by an employer to adjust costing and wage structure to an economically satisfactory position. Therefore, upon signing this agreement a degree of flexibility is to be interpreted as part of the said agreement and only to the mutual satisfaction of all parties shall this intent be waived and upon such action this clause will be removed from the agreement.

Due to the extremely general terms of this clause it is also understood that any abuse of this clause will result in necessary remedial actions as outlined in Article V of this agreement.

34. This was seen as the only practical way of dealing with the precarious nature of this industry from the point of view of any trade union; it allowed a certain amount of flexibility in a collective agreement; it met the need to keep the workers employed; it prevented any abuse of the addendum by permitting legal action to prevent any abuse of cost and wage adjustment clause.

35. Throughout this period, Local 183 must be taken to have known that any efforts in the direction of legal enforcement of the contracts had to be taken only as a last resort, where the need to protect the worker from unscrupulous practices, outweighed the workers' need to remain employed. Throughout this period of organization, Local 183 was in favour of dropping the welfare provisions from the collective agreements, but were to later accuse the Council of failing to enforce those same welfare clauses. The Council is prepared to produce evidence of its consistent efforts to enforce the welfare clauses in the collective agreements.

36. It is submitted that the Council achieved as high a level of compliance with the individual collective agreements as any other trade union could have in the concrete forming industry, given the nature of the particular conditions operating in the field at that time.

37. Local 183, in the closing days of their affiliation with the Council, have acted in an unprincipled and unethical manner, continually mouthing the rhetoric of protecting the workers' interests, and promoting industry wide stability while at the same time embroiling the industry in political intrigue and instability to the detriment of all elements of the construction industry. At page 7165 of the transcript of the examination of John Stefanini before the Commission, the following evidence was given:

Q. Did Local 183 give notice to the Council of its intention to withdraw?

A. We did that. And, however, we start organizing even before we give notice, and doing that –.

Q. Organizing on behalf of 183 then?

A. Correct.

STAGE 3

Local 183 Makes a Deal With the Forming Contractors

38. At the very same time as the Council negotiating team was involved in bargaining sessions with the forming contractors, the Labourers were secretly meeting with the same forming contractors operating under different company names, seeking to be voluntarily recognized as the bargaining agent for their contractors' workers. Having been privy to the internal policy discussions of the Council with respect to wage and benefit demands, Local 183 was continually in a position of being able to undercut the Council's proposals, which quickly led to widespread voluntary recognition.

39. While publicly suggesting that they are protecting the workers' interests, Local 183 met with the companies organized by the Council and offered to take lower wages and less benefits than demanded by the Council, thereby nullifying both the labour standards and the stability that the Council had been able to establish since 1967.

40. Local 183 could not have accomplished such an overwhelming invasion of the Council's jurisdiction, without some collusion on the part of the forming contractors, these same men simply activated corporations that were not party to Council agreements, and subsequently signed through these companies with Local 183 for the same concrete forming workers. The Council was left with companies that very quickly went out of business as their projects were completed.

41. It may be demonstrated that the principals of companies that had signed existing collective agreements with the Council were the very same principals involved in negotiating and signing collective agreements with Local 183 under different corporate names but for substantially the same work force. Eight companies actually made collective agreements with Local 183 for workers that had been organized by the Council prior to the expiry date of the Council collective agreements, and these eight companies involved principals that had figured significantly in the administration of a number of Council companies.

42. James Dawe had been the signatory to collective agreements with the Council on behalf of Direct Forming Limited and Randolph Construction, and he was also a principal of a company, Picola Construction Limited which entered into a collective agreement with Local 183 on September 29, 1971.

43. Guerino Verrelli had been a principal of Dove Forming Limited which signed an agreement with the Council and he was also a principal of Rilli Brothers Forming Limited which entered into a collective agreement with Local 183 on September 20, 1971.

44. Alex DiMatteo had been a principal of Skyview Forming Limited which signed a collective agreement with the Council, and he was also a principal of Sundown Construction Limited which entered into a collective agreement with Local 183 on September 20, 1971.

45. Elvio DelZotto was a principal of Mirmar Forming which signed a collective agreement with the Council and he also was significantly involved with a company, Zaph Construction Limited, which entered into a collective agreement with Local 183 on September 10, 1971.

46. Frank Cortese and Sandy Vlahos were principals who entered into a

collective agreement with the Council on behalf of ACV Cranes Limited, as well as Fran-Kiri Forming Co. Ltd., and they were also the principals of a company, Independent Forming Company Limited, which entered into a collective agreement with Local 183 on October 7, 1971.

47. Italo Cerone was the signatory to two collective agreements entered into with the Council on behalf of Skyline Forming Limited and R.C. Building Systems, and he was also a principal of a company, Highrise Forming Limited, which entered into a collective agreement with Local 183 on October 5, 1971.

48. John DiLorenzo was a principal of a company, Dove Forming Limited that entered into a collective agreement with the Council and he was also the principal of a company, Ilene Construction Limited that entered a collective agreement with Local 183 on September 24, 1971.

49. Nick DiLorenzo was a principal of a company, Mutamp Investments Limited and Zloty Investments Limited which entered into a collective agreement with the Council and he was also a principal of a company, Distinct Construction Limited which entered into a collective agreement with Local 183 on September 11, 1971.

IV THE EXPANSION—LOCAL 183 MOVES INTO THE COMMERCIAL SECTOR

50. A new phase of opportunism has presently been launched by Local 183 in an effort to carve out bargaining rights in the commercial field. This new jurisdictional invasion has been justified on the basis of an owner-builder clause that was included in an agreement entered into on September 20, 1969, between the Metropolitan Toronto Apartment Builders Association and the Toronto Building and Construction Trades Council, to settle conflicts in the residential field and to ensure a standard of safety and efficiency for the protection of construction workers and the public.

51. This owner-builder clause permits residential construction workers represented by the Council to work on commercial buildings if they are being erected by owner-builders. In the face of considerable labour unrest, this agreement was signed by the Building Trades Council to induce some stability and protection for the worker in the residential industry. The agreement was made with major developers represented by the Metropolitan Toronto Apartment Builders Association and the Toronto and District Building Trades Council of which the Council was and is the Residential Division.

52. When the agreement was made Local 183 was a member of the Council, and the benefits of the agreement accrued in part to Local 183 as a member of the Council only.

53. Local 183 and the Metropolitan Toronto Apartment Builders Association are presently trying to use the terms of this agreement to import Local 183 into the commercial field. The Association has expanded substantially and its members let contracts for concrete forming to contractors employing members of Local 183 on a broad range of commercial projects while paying cheaper residential labour costs. This is detrimental to the interests of the craft unions who have organized and represented workers in the commercial forming field as well as their employers.

54. The Association members have stated that although they were bound by the terms of the agreement they could not locate any sub-contractors who were in contractual relationship with the Council. Therefore, they had no alternative but to give the work to the Labourers who had organized almost all of the field. Evidence given at a recent hearing before the Ontario Labour Relations Board in a jurisdictional dispute concerning Local 721, Ilona Construction Limited and Local 183 revealed that the developers were calling the same persons as before, but avoiding the old companies while claiming they could not reach the old companies which had gone out of business. Even in an industry where not much is surprising, this constitutes an incredible hypocrisy.

55. John Stefanini speaking on behalf of Local 183 before the Commission has stated the rationale at page 7178 of the February 6, 1974 transcript, whereby Local 183 feels that it is entitled to venture into the commercial sector of the concrete forming field.

A. Actually, the memorandums stated that they should employ contractor in agreement with the Forming Council. However, when the builders asked for the list they don't have any active forming contractors so for all intents and purposes they believe that there is not such a thing as a Forming Council any longer so they may still be a legal entity, but if we look at the realities we know that Local 183 represents the residential concrete formers.

56. In addition, the concrete forming contractors justify Local 183's intervention into commercial field on the basis that there are no council sub-contracting companies to undertake the work. This line of argument is equally hypocritical on the part of both the union and the contractors inasmuch as they have acted in concert to create the present situation.

V CONCLUSIONS

57. It is easy to be distracted by the dishonesty and lack of integrity which marks much of the conduct described in this brief. However, the real problem is not the conduct itself, but the instability in an industrial relations sense which it brings.

58. Work stoppages have already occurred where Local 183 members have performed the work of the established crafts on commercial projects. Until the traditional patterns of organization are re-established in the residential field the possibility of further upheavals looms large.

59. The history of organization is short in the residential field however and, in the near future the commercial sector will likely become a battleground as the building trades act to preserve the standards and conditions for which they have struggled since concrete forming became a building technique many years ago. The building trades remember parallel situations in which the lathers were destroyed as a commercial union by the importation of residential standards and will not permit it to happen again.

60. The Council and its sponsoring trade unions believe that the conduct of both Local 183 and the forming contractors is worthy only of condemnation and they are pledged to restore the normal balance and stability of traditional labour organization to all segments of the construction industry.

APPENDIX L - 2

Supplementary Submission from the International Union of Operating Engineers, Hoisting Division Local 793 A-B-C-D

We understand that on or about May 10th, 1974 a brief was submitted to you purporting to be on behalf of the Council of Concrete Forming Trade Unions, a copy of which we now have.

Although our Union is a member of the Council, and we were in favour of preparing a brief pertaining to the concrete forming industry, the members of the Council agreed that they would be allowed an opportunity of approving the brief before it was submitted to you. Notwithstanding this arrangement, those responsible for the brief presented it without our having had an opportunity of examining the same and approving or disapproving of its contents. Upon discovering that the brief had been submitted, we wrote to Mr. Fred Leach, Recording Secretary of the Council, on June 7th, 1974, a copy of which letter we enclose, advising him that we did not have an opportunity of perusing the brief and we requested a copy of it.

We have now carefully considered the contents of the brief and in view of the circumstances, we must advise that our Union cannot, in all conscience, subscribe to or associate itself with the same.

Our Union has had considerable involvement in the residential concrete forming industry in Metropolitan Toronto, including having collective agreements with most of the forming contractors, covering crane operators. Based upon this experience and our knowledge of the industry it is our opinion that the brief:

1. Does not accurately describe the historical development of the residential concrete forming industry in Metropolitan Toronto.
2. Contains many distorted and untrue facts.
3. Contains allegations of improper conduct by the forming contractors, Labourers' Union Local 183 and its representatives, without presenting any meaningful evidence in support of such allegations.
4. Represents an improper attempt to attack and discredit the efforts of Labourers' Union Local 183 in connection with their attempts to organize and represent the workers of this industry.

While we do not intend to comment upon the entire brief, we wish to briefly discuss certain aspects of the same:

(a) In relation to paragraph 32, at page 15 of the brief, as a result of our involvement in the industry, we are certainly satisfied that the Labourers' Local 183 concrete forming agreements and the steps taken by that Union to enforce the provisions thereof and its attempts to properly service the employees covered by these agreements, have in fact resulted in greatly improved working conditions for the concrete forming worker. There can be no doubt that the establishment of collective bargaining relationships between Labourers' Local 183 and the forming contractors has succeeded in bringing greater stability to the industry than that which previously existed.

(b) At page 18 of the brief, there is a suggestion, without reference to any direct evidence, that there was collusion between Labourers' Local 183 and the forming contractors. To the best of our knowledge and based upon our involvement in this industry, there is no basis whatsoever to support the conclusion that Local 183 or the contractors engaged in any improper conduct during Local 183's organizational campaign. In fact, it has always been our understanding that Local 183 and the contractors complied fully with the Ontario Labour Relations Act when they entered into collective bargaining relationships with each other. To our knowledge and we believe this was established in evidence before you during the inquiry into this segment of the construction industry, that the collective agreements between Local 183 and the contractors were not entered into until such time as Local 183 was able to establish that it in fact, represented a majority of the employees who were to be covered by such agreements.

(c) We are very much disturbed with the Conclusions which appear on page 25 of the brief. As indicated earlier, the industry is far more stable now than it ever has been and there is no basis for suggesting that the conduct of the Unions and the contractors presently involved in this industry has been dishonest and without integrity as the brief suggests.

(d) We are not aware of any evidence to support the conclusion contained in paragraph 58 of the brief.

(e) In connection with the conclusion in paragraph 59 of the brief, we are satisfied that the Labourers' Local 183 has and will continue to cooperate with the other Unions in preserving and maintaining peace in the commercial sector of the construction industry. Our Union certainly has no intention whatsoever to be part of any 'battleground' in the commercial sector. It is our view, that irresponsible suggestions like those contained in paragraph 59 in themselves could very well result in the sort of 'battleground' which seems to be envisaged.

(f) The conclusion in paragraph 60 that '... the conduct of both Local 183 and the forming contractors is worthy only of condemnation ...' is once again completely irresponsible and without regard to the realities of the situation as it presently exists. In fact, the forming contractors have, in the main, lived up to their collective agreements with our Union, which is certainly a substantial improvement to the situation which existed in this industry during the late 1960's. Furthermore, during the time when the non-union forming companies were becoming unionized, our Union experienced fewer problems in the industry than it has experienced in similar situations in other segments of the construction industry.

We are confident that with the continued cooperation from the forming contractors, Labourers' Union Local 183 and our Union the stability already achieved in the forming industry will continue to improve, all to the benefit of the workers, contractors, unions and the public.

We thank you for the opportunity of letting us write to you in connection with this matter and we trust that our letter will be of some assistance to you.

W.W. Lippett,
Business Manager.

APPENDIX M

Ontario General Contractors Association

PREAMBLE

The Ontario General Contractors Association is pleased to respond to the Commission's invitation to present its views on a number of matters which may be of interest to the Commission. Our intent in making this submission and in meeting with the Commission is to inform and assist the Commission in its endeavours, and in so doing to discharge what the Association sees as its responsibility to itself, to our member companies, to the industry generally and to the community at large.

Many of those associated with the Ontario General Contractors Association in one capacity or another have, very naturally, been distressed by the press accounts of the Commission's proceedings and while we have no intention of commenting upon those proceedings, we are bound to observe that the press accounts have created an impression in the public's mind of the construction industry which is extremely unfavourable; the Association is naturally sensitive about this and believes that there is some duty lying upon the Commission to particularise the results of its inquiry so as to establish for the benefit of the public that the large percentage of the business carried on within the construction industry is conducted ethically and legitimately and that the press accounts may have resulted in a distorted picture of how the industry substantially operates.

We believe that in presenting our views we should address ourselves to those matters which lie within the Association's scope of activity and interest as reflected in our By-Laws, our policies and our day-to-day

operations. Accordingly the plan of this submission is to identify our interest in the Commission's activities and then to identify the Association itself; we will then speak about contract methods, tendering and contract award procedures, and finally labour relations legislation and policies.

Before proceeding we would like to say again why we sought a private session with the Commission rather than one open to the press. Our reason lies in our desire to inform and assist the Commission. There is nothing in what we will be saying here that we would not under other circumstances say publicly. We believe that there are times for privacy and times for publicity, and in this particular situation we simply did not wish to take on the additional obligation of interviews with the press in addition to our discussions here with the Commission. We see nothing unusual or mysterious in choosing privacy and excluding publicity in these circumstances.

THE SCOPE OF THE INQUIRY

We have noted from the Order-in-Council establishing the Commission that the scope of the inquiry is directed to the possibility of unlawful activities in industry operations; we note also that the Commission, after investigating and inquiring into industry operations and reporting upon the possibility of any unlawful activities, is also given discretion in making recommendations in respect to such matters.

The Association's submission and this meeting may be of value to the Commission in a direct way and should at least provide the industry's views on some matters of interest to the Commission.

THE ASSOCIATION

The Ontario General Contractors Association is a non-profit corporation established in 1939 and chartered under the Ontario Companies' Act. The membership of the Association, presently numbering some 135 firms, is comprised solely of general contracting companies (the 1973 alphabetical index of members is appended hereto). With the exception of honorary life members, there is no other class of membership than general contracting companies; qualifications for membership are stipulated in Article VI of the Association's By-Laws. Subcontracting companies and materials and equipment manufacturers or suppliers are not eligible for membership in the Association.

The member companies carry out a combined annual volume estimated at \$2 Billion; virtually 100% of this business is done in the commercial,

institutional, industrial and heavy engineering sectors of the construction market which can be collectively described as the non-residential sector. Close to 100% of this estimated annual volume is executed under contract between the general contracting company and its client, the public or the private owner. Construction by member companies for their own account on a speculative or investment basis has been negligible. The member companies vary widely in size; many of them are small firms with an annual volume of up to \$1 Million; other companies' volume would be between \$3 and \$10 Million and others would range from \$10 to \$75 Million or more, depending upon the strength of the market in any given year.

Whether a general contracting company is bound or not bound to collective agreements has no bearing whatever on that company's eligibility for membership. Throughout its 35 years the Association's membership has included companies in both categories and moreover has included companies whose collective agreements are with other than the A.F.L. craft-type of union. The Association is not and never has been an employer organization within the meaning of the Ontario Labour Relations Act; it has never, therefore, participated in collective bargaining or collective agreement administration on behalf of its members or anyone else. This 'hands off policy' with respect to collective bargaining originated because of the respect for the local authority and responsibility of the employer groups in various municipalities across the province; the Association's stand on this matter has not changed even with the relatively recent trend towards province-wide bargaining and province-wide agreements, a development which the Association has watched with interest and which it recognizes has desirable features which may often obscure the disadvantages and certain considerations applicable to the process of bargaining and the relationship between the terms and conditions of collective agreements and the operations of the industry from one locality to another.

This stand with respect to collective bargaining does not mean a disinterest by the Association in labour management relations; the opposite is in fact the case and there is ample evidence of the Ontario General Contractors Association's interest in and involvement with the legislative and policy areas applicable to labour management relations. The Association's actual formation back in 1939 was precipitated by the industry's need for representation on the very first legislative proposal dealing with vacations with pay. Evidence of more recent vintage is the Association's involvement in the preparation and submission of a brief to the Ontario Minister of Labour which led to a number of amendments to the Ontario Labour Relations Act; one of these was the provision for accreditation of employer

associations; this provision for accreditation stemmed from the Goldenberg-Crispo Report. It is worth noting in passing that for reasons which many fail to understand the establishment of accredited employer associations was not pursued on a broad basis, and in respect to general contractors was pursued only in two municipalities. We will return to this matter later in the brief.

We would like the Commission to recognize that our policy with respect to responsibility for collective bargaining has enabled the Association to approach the legislative and policy areas in labour management relations with greater objectivity than might otherwise be possible. It is also worth emphasizing that our non-involvement in collective bargaining has allowed the Association to be representative of both union and non-union general contracting companies. We suggest, therefore, that we have been able to bring balanced judgment to labour relations matters and at the same time dealing with the roles of the general contractor in the field of collective bargaining.

Before completing the identification of the Association, it should be made abundantly clear that when we are identifying the Association and its policies and activities, we are in fact identifying the attitudes and wishes of the members. The Association does not exist in isolation from its member companies and the marketplace in which they operate. The policies and programs of the Association are arrived at after research and debate and in meetings conducted according to the most acceptable standards.

The Association may be said to have three essential roles, three broad basic reasons for existence and these are as follows:

- A. The promotion and development of the general contractors' position in the marketplace.
- B. The establishment of the acceptable conditions (in terms of economics and legislation, et cetera) for carrying on the general contracting business in a manner that is equitable to both client and contractor.
- C. The pursuit of those activities designed to enable member companies to attain their most effective operating performance.

The programs to fulfil these roles are varied and flexible.

The Association believes that it enjoys the respect of and cooperation from architects, engineers, private and public owners and persons in the fields of government, business and education. We believe this respect and cooperation have been earned by responsible behaviour and the advocacy of policies which are sound from the view of both client and contractor, for both government and industry. The Association's roles are furthered in a variety of ways, among these being unilaterally developed and conducted

programs, as well as the use of joint committees with the design professions and with Ministries of the Ontario Government; two such joint committees have been operating for over fifteen years; the scope of a typical joint committee is illustrated in the terms of reference, a copy of which is attached hereto.

The Commission may wish to raise questions about other aspects of the Association's operations and we will be glad to respond to such questions.

CONTRACT METHODS

We understand the Commission may be interested in an examination of the various types of contracts which are executed between the contractor and his client. There has been a marked shift in the type or method of contracting during the past few years, and naturally this evolution has had both favourable and unfavourable consequences.

Until the very late sixties the general contractor's clients and particularly those in the public sector had their projects carried out under a stipulated or lump sum contract. In some situations, and particularly in the private sector, the client entered into a contract based on the cost of the work and a fee for the prime contractor's services. The lump sum contract would be entered into either as a result of competitive bidding on a public or invited basis or as a result of negotiations between the owner client and a chosen contractor.

Although the current instability of prices for some materials are causing special, and hopefully temporary, problems in tendering and contracting on a lump sum basis, the Association believes that the owner/client and the contractor are in the last analysis best served by the lump sum method. The arguments in support of this position have been outlined on many occasions; a press release of fairly recent date on this subject is appended hereto.

The Association recognizes that there are projects where other than the lump sum approach is appropriate and therefore the introduction of the construction by management contract and the construction by the project management approaches are valid where there are certain factors present; the principal factors which we have in mind are:

1. An extremely large and complex project taking two years or more to complete;
2. A project which must be carried out on an emergency basis and therefore construction must be commenced before working drawings can be completed and put out for competitive tendering.

Where either or both of these factors are applicable, then there may be justification in a contracting method other than the lump sum type.

The Association has watched with some anxiety the application of the construction management or project management approach by the public owner/client and has also viewed with concern the utilization of the development proposal approach; the latter has been used particularly in regard to university student housing and public housing under the auspices of Ontario Government Housing Corporations.

The competitively tendered project carried out under a lump sum contract awarded to the lowest qualified bidder has all the merits ascribed to it but it also has indirect advantages which commend themselves to the industry and to the public interest; to be specific, the competitively tendered lump sum project avoids the need for the use of subjective judgments, the private exercise of discretion, and does not create opportunities for a rationalized restraint of competition.

The Association has always drawn a distinction between what the public owner/client may choose in contract methods and what the private sector client may consider appropriate. In our view the public owner must use contracting methods which provide every reasonable means of assuring the proper expenditure of public funds. This is an obligation that does not apply to the private owner because his accountability is not to the tax-paying public but to the shareholders. The expenditure of public funds is judged upon propriety and need, whereas the expenditure of monies by the private sector client will be judged by the shareholders on their contribution to the client's corporate objectives. It is with these considerations in mind that we believe that there are risks to the public interest when the public owner utilizes other than the lump sum method.

In summary the Association sees itself as having a responsibility to advocate the use of contract methods which are most appropriate in each given situation. In exercising this responsibility the Association strives to strike a balance between the adopting innovative methods and the indiscriminate and unwise use of any given method.

TENDERING AND CONTRACT AWARD PROCEDURES

As the Association's Statements of Policies will reflect (see Article VII to XXVI of Statements of Policy appended hereto), the Association devotes a good deal of its time and effort to advocating reasonable and equitable tendering and contract award procedures. On many occasions throughout the year the Association will make representations to owners, architects,

and engineers with a view to rectifying complaints received from member companies about the methods or procedures which are being used in given instances.

We have no hesitation in claiming that the improvements sought are beneficial, not to the contractor alone, but also to the owner. The general contractor in the non-residential construction market encounters a very large number of prospective clients whom we sometimes describe as construction buyers. This group takes in school boards, municipal, regional, provincial and federal government agencies, the boards of governors of hospitals, community colleges and universities plus a large number of private sector owners. The Commission will, therefore, appreciate the wide variety of tendering and contract award procedures encountered by the general contractor. We have no reluctance in admitting that the resources of the Association are not sufficient to cope with all the problems that arise in this area; what the Association does accomplish is done entirely by the use of persuasion through oral and written submissions.

In addition to dealing with tendering and contract award procedures applicable between the general contractor and the owner, the Association has had a long involvement in this same field as it applies to general contractor and sub-contractor. A particular subject that has occupied a good deal of our attention is the existence and operation of bid depositories. We refer the Commission to Article XI in our Statements of Policy. We are currently engaged in the third attempt in the past ten to twelve years to bring about uniformity in the administration and procedures of bid depositories and by so doing to eradicate abuses which have occurred from time to time.

We are uncertain as to the actual extent of the Commission's interest in this matter but it is worth pointing out that when this submission was being prepared we received from the Acting Chairman of the Restrictive Trade Practices Commission the report on the research inquiry conducted by the Investigation and Research Authorities acting under Section 47 of the Combines Investigation Act. The covering letter from Mr. Couture contains this quotation from the Deputy Director's statement.

'From the evidence collected at this inquiry it seems reasonable to conclude that the bid depositories and related systems which exist in Canada are all destructive of competition to a significant extent. Moreover, it is not apparent how their anti-competitive elements can be removed while still leaving them capable of performing any role in the construction industry. In the first place, the inquiry has cast considerable doubt upon the existence of any public

interest in having private agencies designed to deter post-bid negotiations. In the second place, bid depositories in seeking to deter post-bid negotiations, have been driven to the creation of machinery which is restrictive of competition in a number of additional ways.'

The Commission may have questions about some aspects of tendering and contract award procedures.

LABOUR MANAGEMENT LEGISLATION AND POLICIES

We sometimes feel that the public sees the construction industry as having more strikes and work stoppages than it does periods of productivity. That, of course, is not the case but there is assuredly vast room for improvement in the field of labour management relations.

Until relatively a short time ago, collective bargaining in respect to the six trades employed by the general contractor was in the hands of the general contractors at the local level; in many municipalities across the province, the bargaining was carried on by the general contractors' section of the local construction association. This arrangement operated successfully in some situations and not in others. The breakdown of the arrangement in any given instance could be due to one or more factors. In every case, however, the need to maintain unity within the employer group was always critical and could create demanding pressures. One of the major weaknesses in the arrangement was that membership in the employer group was voluntary and non-members could create serious difficulties in bargaining or strike times by reaching separate agreements for their own projects.

The introduction of accreditation provided a way to overcome this problem but for reasons which are now impossible to understand the Labour Relations Bureau of the province-wide industry association then in existence abandoned the development of accredited employer organizations, and consequently only two groups with which we are familiar established themselves under the accreditation provisions.

The general contractor's position in labour relations is a complex one. For a variety of reasons his direct employee strength has declined, particularly in four of the six so-called general trades. Someone might argue, therefore, that his voice in the collective bargaining situation should be limited accordingly.

Such a point of view would, however, fail to recognize that the general contractor as the leader of the construction team on a project has two very

distinct interests in labour management relations. One of these interests is, of course, as an employer of labourers, brick layers, carpenters, cement masons, operating engineers and rodmen. His other interest in labour management relations stems from his role and responsibility for the construction project. Because the general contractor must ultimately satisfy his client, the owner of the project, he is extremely interested in discouraging costly work practices and uneconomic terms and conditions in collective agreements. Accordingly we would urge the Commission to recognize this duality of interest. It is very important to understand this duality of interest if the general contractor's responsibilities to his client are not to be compromised by certain bargaining and representation arrangements. There is a very definite concern that the exercise of employer power in collective bargaining should remain in the hands of persons whose attitudes and motives take into account the interests of the customer, the buyer of the industry's goods and services in the form of buildings.

CONCLUSION

We trust that this submission will fulfil the two objectives which we set down for ourselves when preparing it. We wanted to give the Commission a profile of the Association and some of the areas to which it devotes its efforts and resources. Secondly we wanted to have it serve as a basis for questions by the Commission and some dialogue between the Commission and the Association.

APPENDIX N

Inter-Provincial Council of Lathers For and On Behalf of its Affiliated Local Unions, Locals 97, 145, 360, 439, 538, 540, 545, 551, 555 and 562

I INTRODUCTION

The Inter-Provincial Council of Lathers, ('the Council') for and on behalf of its affiliated local unions, Local 97 (Toronto), Local 145 (Hamilton), Local 360 (London), Local 439 (Windsor), Local 538 (Sudbury), Local 540 (Sarnia), Local 545 (Kingston), Local 551 (Kitchener), Local 555 (Peterborough), and Local 562 (Toronto) welcomes the invitation of the Commissioner to present this brief to The Royal Commission on Certain Sectors of the Building Industry ('The Royal Commission'). This brief is submitted to The Royal Commission with a view to setting forth the bargaining history of the Council and its affiliated Locals in the Province of Ontario and, more importantly, with respect to certain serious problems that have beset the Council and its local affiliates in recent years.

2 COLLECTIVE BARGAINING HISTORY OF THE COUNCIL AND ITS AFFILIATED LOCAL UNIONS

(a) *The Wood, Wire & Metal Lathers' International Union* ('The Lathers' International') was founded in the United States in 1899 and was duly recognized by the Building and Construction Trades Department of the American Federation of Labour.

The Lathers' International has granted charters for local unions in the Province of Ontario since approximately 1902 when a charter was granted

for Local 97 at Toronto and most recently, on March 4th, 1968, a charter was granted for Local 562 also at Toronto. Local Unions of the Lathers' International are generally affiliated in each municipality to a local Building and Construction Trades Council which comprises locals of the various building trade unions chartered by the said Building and Construction Trades Department of the American Federation of Labour.

In approximately 1946, the Lathers' International chartered the said Council with jurisdiction in the Provinces of Ontario and Quebec and at that time, all existing Lathers' local unions became affiliated with the Council. The primary purpose to be served by such Council was the negotiation and administration of a uniform inter-provincial collective bargaining agreement for the provinces of Ontario and Quebec with common conditions of employment for all members of the union except with respect to rates of wages which would vary for each local's area jurisdiction.

While it is compulsory under the Lathers' International's constitution for local unions to be affiliated with state or provincial councils, as the case may be, it is not mandatory for them to be bound by any collective agreement entered into by the council. However, with the exception of Locals 315 (Montreal) 423 (Ottawa) and more recently 562 (Toronto), the council has bargained on behalf of all local unions of the Lathers' in the Province of Ontario since approximately 1954. In 1971, Local 97 (Toronto) decided to enter into a separate collective agreement with its employers and thereafter, the council no longer bargained with employers on behalf of any of the other Lathers' local unions.

During the period of time from 1954 until 1971, the said council bargained with the Contracting, Lathing and Plastering Association of Ontario. Attached hereto and marked exhibit 'A' is the membership list compiled by the said association with respect to its last collective agreement with the council.

(b) The Background and History of Local 562

During the 1950's, there was a great surge in the construction of apartment buildings in the Municipality of Metropolitan Toronto which resulted from a great increase in the demand for residential housing in the Toronto area. These projects, for the most part, were undertaken by owner-builders rather than by general contractors who had engaged construction union tradesmen in the industrial, commercial and institutional sectors of the construction industry.

The owner-builder generally had no employees of his own but sub-contracted out the great majority of his work to sub-contractors which had not heretofore been organized by any of the construction trade unions.

In the 1950's, many of the building trade unions at Toronto including the Lathers' International attempted to organize the residential sector of the construction industry and, in 1951, Local 97B was chartered by the Lathers' International to provide an appropriate vehicle for this organization. The reasons for a chartering of a separate local union by the Lathers' International was two-fold:

- (a) It was recognized that it was unrealistic to insist upon the introduction of the higher rates of wages and conditions of work which had long been established in the said industrial, commercial and institutional sector of the industry;
- (b) Local 97 which had been established for many years in the Toronto area, insisted, as was its constitutional prerogative, that a separate local union be established lest the organization of residential lathers and the admission of these persons into membership, might diminish the existing opportunities for employment of members of Local 97 in the commercial segment of the construction industry.

As was the case with the other building trade unions which attempted to organize the residential part of the industry, by the early 1960's, Local 97B ceased to exist as a viable trade union entity. However, in 1965, the Lathers' International granted permission to Local 97 to organize the residential lathing industry under Local 97, Residential Division ('the residential division'). The residential division successfully organized several lathing contractors and thereafter, applied to the Board for certification for their said employees. On September 30th, 1965, the residential division entered into its initial collective agreement with the applicable lathing contractors organization, the Metro Lathing Contracting Association ('the Metro Association'). In an effort to expand employment opportunities beyond the residential sector of the industry, the members of the said residential division were granted a charter by the Lathers' International in March 1968 as Local 562 and on March 18th, 1968, an agreement was entered into between Local 562 and the said Metro Association. Attached hereto and marked exhibit 'B' is a letter dated March 19th, 1968 from the said Metro Association containing a list of its members at that time.

(c) Recent Bargaining Developments at Toronto

Prior to 1970, the predominant partition assembly consisted of two inch solid plaster wall which was comprised of ceiling tracks to which channel iron studs were fastened to which metal lath was attached. In other words, the metal lath partition, having been plastered on both sides, had a total thickness of two inches. However, in approximately 1970, the drywall partition assembly system rapidly began to replace the plaster system. In view of the experience of Local 562's members with respect to the metal furring component system for plaster partitions and their experience in applying gypsum board lath, the local's members had sufficient expertise to adapt and perform the necessary metal furring for drywall construction.

On or about that time, several members of the Metro Association incorporated a new employer's organization, known as The Drywall Contractor Association of Ontario ('the Drywall Association'). In particular, several members of the Metro Association incorporated new companies which were to be exclusively engaged in drywall installation as a separate and distinct business from their lathing enterprises. By way of example, the owners of Romanelli Lathing Limited established Durable Drywall Limited, Lido Plastering Limited branched off into Lido Drywall Limited and Fanelli Lathing Limited was associated with Yorkland Drywall and Acoustics Limited.

On November 26th 1970, the Drywall Association voluntarily recognized Local 562 as bargaining agent for their respective employees engaged in the installation of drywall systems. Apparently, the motivation for the formation of this new association was to permit and to facilitate separate bargaining for the employees of those companies engaged in drywall as distinct from lathing construction. In addition, a piece-work system was introduced into the Drywall Association's collective agreement with Local 562 which in the contractor's estimation more closely correlated their employees' production to wages.

The membership of Local 562, for their part, agreed with the introduction of the piece-work incentive basis of employment with respect to drywall installation for two main reasons:

- (a) Firstly, there was an appreciation of the requirement for a retraining program for Local 562 members who had previously been engaged in the installation of metal lath but were now required for the first time to install drywall for which they had little, if any, practical experience; and
- (b) Secondly, many of the new members of Local 562 who were engaged in drywall installation had previously been employed on an unorganized basis in

the residential housing field at Toronto and had historically worked on a piece-work basis and in fact, preferred this system due to certain income tax considerations not otherwise available for hourly-rated employees.

On August 15th, 1972, the Metro Association merged with the Drywall Association and formed a new employers' organization known as the Interior Systems Contractors Association of Ontario. On May 1st, 1973, an amendment of collective agreement was entered into by members of the two former associations with Local 562 to facilitate the transformation to a new era of collective bargaining involving both lathing and drywall. At the present time, Local 562 is about to sign its initial collective agreement with the said new association. Attached hereto and marked Exhibit 'C' is the membership list for the two former Associations.

(d) Conflicts between Local 97 and 562

On September 27th, 1971, Local 97 entered into a collective agreement with The Contracting Plasterers Association of Toronto ('C.P.A.T.') with respect to lath and drywall construction. Attached hereto and marked exhibit 'D' is a list of the member contractors of C.P.A.T. Shortly thereafter, a rivalry developed between the members of the Drywall Association and the members of C.P.A.T. As a direct result, a 'jurisdictional dispute' arose between Locals 97 and 562. After protracted and unfortunately, fruitless discussions and negotiations between the two local unions with respect to an equitable distribution of drywall installation at Toronto, the General President of the Lathers' International awarded jurisdiction over all drywall construction systems in the Municipality of Metropolitan Toronto to Local 562. Further, the said General President ordered that the two local unions merge. As a result of the President's directives, Local 97 initiated proceedings in the Supreme Court of Ontario where it claimed certain injunctive relief and in addition, commenced proceedings before the Board where, inter alia, it sought leave of the Board to prosecute Local 562. While the proceedings at Court were not followed through with by Local 97, the Board dismissed the Application for Consent to Institute Prosecution launched by Local 97. Attached hereto and marked Exhibit 'E' is a copy of the Board's decision dated May 8th 1972.

In May 1973, many of Local 97's members left the Lathers' Union and applied for membership in the Carpenters' Union. Moreover, that union successfully was certified by the Board for the employees of several of the former employers who were previously members of C.P.A.T. Simply put, these former members of Local 97 were disgruntled over the General

President's decision to award commercial jurisdiction to a residential lathing local, Local 562: They sought refuge in the Carpenter's Union, which union has always maintained the distinction between residential work on the one hand and institutional, commercial and industrial work on the other.

3 JURISDICTION OF THE LATHERS' INTERNATIONAL UNION AND THE RESULTS OF TECHNOLOGICAL CHANGE THERETO

In essence, the trade jurisdiction of Lathers' union locals relates to lathing installation for the interior construction of walls and ceiling systems. Traditionally, the Lathing trade pertains to materials erected on either walls or ceilings which receive plaster. However, the Lathers' trade has evolved with technological changes in building materials and methods of applying these materials to interior walls and ceilings. Generally, there are three distinctly different species of contractors who have employed members of lathers' local unions:

- (a) lathing contractors will contract for the supply and erection of lathing materials;
- (b) drywall contractors who contract for the supply and erection of metal furring component systems and the application of drywall gypsum board thereto; and
- (c) acoustical contractors who contract for the supply and erection of acoustical ceiling systems.

However, contractors primarily engaged in any of the above-mentioned types of construction frequently take on work which involves one or more of the other related types of construction herein.

As a material to receive plaster, lath has undergone many technological changes. Prior to the introduction in the 1930's of gypsum board lath, wood lath was predominantly used in connection with wood-framed structures. Expanded metal lath and metal furring components to which lath was attached have been used since the turn of the century for the construction of wall and ceiling systems as a plaster base. On the other hand, drywall, as a construction material, was first introduced into the Province of Ontario in the construction of wartime housing units which were intended to be for temporary use only. Drywall is not unlike gypsum lath but the dimensions of drywall are larger: Whereas the standard size of gypsum lath is 16" x 48" the size of drywall board, being a standard four feet in width, varies in length from eight feet to twelve feet.

Although drywall was initially intended to be a material to be attached by nailing to wood-framed structures, a system was developed in the late 1950's of using light-gauged metal furring components to which drywall could be attached by self-taping screws driven by an electric screwgun. This system, which is still in wide use today, has all but replaced the aforementioned, conventional lath and plaster construction systems in Metropolitan Toronto.

In the late 1960's, a new construction technique was introduced which was generally known as a 'veneer plaster system' which incorporates some of the materials and methods which were previously used in both lathing and drywall systems. In the veneer plaster system, the drywall metal furring component system and the large gypsum boards are utilized but the plaster finish is applied in a single coat which covers the whole board. In the drywall system, only the joints between the boards and the nail or screw depressions are covered by a plastic finishing material.

In the 1940's, acoustical ceiling systems were first introduced into the Province of Ontario and since that time, they have also undergone considerable changes in their method of construction. While the methods of constructing acoustical ceiling systems vary for each particular system, there is a common metal furring component to which the acoustical finished panels or tiles are attached. Notwithstanding that both materials and application methods have greatly evolved over the years, it is the submission of the lathers' union, that its members' skills and experience with respect to lathing systems lend themselves to the said technological innovations inherent in the drywall and acoustical ceiling systems.

4 LATHERS' APPRENTICESHIP AND TRAINING

Prior to the establishment in 1952 of the formal training facility, lathers' apprentices were trained on the job site by journeymen Lathers. While this method of training sufficed, the union recognized the necessity for a formal off-site training program, including the teaching of drafting, mathematics and other academic subjects necessary for the trade.

Lathers' local unions have traditionally worked towards the upgrading of their craft and for that reason have actively fostered the establishment of a formal apprenticeship training program in cooperation with both the trade contractors and the Ontario Provincial Institute of Trades.

Initially, the council approached the industrial training branch of the Ontario Ministry of Labour with a view of acquiring the status of certified trade. Thereafter, a Provincial Advisory Committee which was composed

of both employer and union appointees cooperated with the Ministry's officials to prepare a requisite Trade Analysis and Regulations pertinent to the Lathing trade. In 1967, the lathing trade officially became a certified trade.

5 THE STRUGGLE FOR SURVIVAL – THE JURISDICTIONAL DISPUTE WITH THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

(a) *Generally:* In the Province of Ontario, Lathers Local Unions have had both bitter and continuous jurisdictional disputes with local unions of the United Brotherhood of Carpenters and Joiners of America. These difficulties have become particularly exacerbated as a result of the introduction of the drywall and acoustical ceiling systems above-mentioned. When considering the time period over which such difficulties have ranged together with the costs and the results of the same, it is simply unbelievable to realize that the total trade union membership of the Carpenters in Canada is some 75,000 members while the Lathers' International counts some 1,500 members in this country. This one sided ratio has not appreciably changed since the two unions first started organizing in Canada.

(b) *The National Joint Board*

Clearly, one of the root causes for the jurisdictional dispute stems from the decisions of the National Joint Board which is headquartered at Washington, D.C., now known as the Impartial Jurisdictional Disputes Board for the Construction Industry ('The N.J.B.'). The decisions of the N.J.B. rendered in the lathing, drywall and acoustical ceiling sector of the construction industry, not only have not contributed to any measure of industrial peace, they have simply caused confusion and dissatisfaction.

The substance of the N.J.B. decisions in this sector of the industry have been to divide the work which thereby requires contractors to employ composite work forces. As a practical result thereof, contractors have found it expedient to deal exclusively either with the Lathers' local unions or the Carpenters' local unions.

Currently, the N.J.B. and its successor award work involving drywall attached to wood furring to carpenters, while drywall and metal furring components in walls may be installed by either Lathers or Carpenters depending on which union receives the initial work assignment from the primary employer. On the other hand, with respect to acoustical ceiling and drywall ceiling systems, all work has been awarded to Carpenters except

with respect to hanging rods and 1 1/2" channel iron, known as carriers, for suspended ceiling construction which has been awarded to Lathers. Gyp-roc and metal lath as a base for plaster is also awarded to Lathers.

Needless to say, this division of work is unacceptable to contractors engaged in one or more of these various construction systems. Clearly, it is in their interests to provide continuity of employment for their employees without any disruption, which would obviously be caused by changing of work forces in order to comply with the said N.J.B. decisions.

(c) Unlawful Activities by Carpenters' Local Unions: The Unlawful Strike Weapon

A frequent tactic deployed by the locals of the Carpenters' Union involves unlawful strike activity. Simply put, there has been a concerted pattern of such activity by locals of the Carpenters' Union since the mid 1960's. It was with a view to restraining this activity in the Toronto area, that Local 97 commenced proceedings in the Supreme Court of Ontario in 1967 which proceeding resulted in an undertaking on the part of certain officials of the Carpenters' local union not to '... participate in or be responsible for' any unlawful strike activity. As will be more fully documented, *infra*, this pattern has been a persistent and serious one for Lathers' local unions in Ontario. Attached hereto and marked Exhibits 'F' and 'G' is copies of the Order of Mr. Justice Richardson dated April 26, 1967, together with the Statement of Claim filed at Court.

(d) The Carpenters' Sub-contracting Clause

More recently, one of the principal tactics used by Carpenter Union Locals is to negotiate a 'no sub-contract' clause in collective agreements with general contractors. It is made an express term of such collective agreements with locals of the Carpenters' union that all sub-contracts be awarded to only those contractors who have collective bargaining with Carpenters' local unions. This clause, which is primarily directed against lathers' local unions, forms the basis for grievance-arbitration proceedings against general contractors who award drywall or acoustical ceiling systems contracts to sub-contractors having collective agreements with locals of the Lathers' Union. The main purpose of these proceedings is to compel the general contractor to change its assignment in favour of Carpenter Local Unions. In addition to that, these proceedings are often raised as a factor to be considered by the Board in exercising its discretion in a Complaint Concerning Work Assignment made under Section 81 of the Act, as will hereinafter be discussed in greater detail.

6 REMEDIES AVAILABLE TO THE LATHERS' UNION UNDER THE LABOUR RELATIONS ACT

Clearly, the primary remedy afforded for the resolution of jurisdictional disputes between construction trade unions is the relief under Section 81 of the Act by means of a Complaint Concerning Work Assignment application before the Board. Under this provision of the Act, the Board may hear and determine which of two trade unions is entitled to perform the work in dispute. However, in the Lathers' experience, this remedy has been largely unavailable: The Board has declined in several cases to hear these inter-union disputes on their merits on technical grounds advanced by the Carpenters' Union. For example, the Carpenters' Union has relied on the fact that it has not 'requested' the work in dispute from the primary employer. Accordingly, the Board has held that it is without jurisdiction to entertain a Complaint in these circumstances.

A watershed case in this area is the Board's decision in *Northdown Drywall and Construction Limited* (O.L.R.B. File No. 1411-71-JD) dated June 28th, 1972. In that case, the Board held:

'... Section 81 (1) presupposes a conflict between two competing trade unions for work to be assigned by an employer and further that there is an assignment or contemplated assignment to one trade union which may result in some conflict because another trade union is requiring that assignment. In this case, there is no actual assignment or contemplated assignment to the Carpenters because they have indicated that they are not prepared to accept such an assignment nor have they received such an assignment. The parties are posing a fictional assignment to Carpenters which has no basis in fact nor in law. How can the Lathers require an assignment to it 'rather than' to Carpenters where no such assignment to the Carpenters exists and there is no indication that the complainant is or will be breaching its collective agreement by assigning the work to Lathers?'

An application was made to the Divisional Court of Ontario to review and to quash this decision but, in view of the fact that the work in dispute had been completed before the case came on for hearing at Court, the application for judicial review was dismissed without any enquiry into the merits of the Board's decision.

Moreover, as noted, *supra*, in jurisdictional dispute proceedings before the Board, the Carpenters' Union has frequently relied upon the fact that it has lodged a grievance against the general contractor and that the Board

ought not to issue an Order under Section 81 in view of the effects of Section 81 (17) which could '... reach out and affect the collective agreement between the Carpenters and [the general contractor] pursuant to Section 81 (17) of the Act. That section indicated that an interim order made by this Board prevails and persons complying "shall be deemed not to have violated any provision of ... any collective agreement"'. (Abe Dick Masonry Limited, O.L.R.B. File No. 1404-71-JD, dated January 20th, 1972)

Another serious problem that necessarily arises with respect to the Board's jurisdiction to issue an *interim* order with respect to an assignment of work is that an applicant must allege that '... a strike is imminent or is taking place by reason of the requirement as to the assignment of work ...' In other words, a trade union must threaten an unlawful strike in order to clothe the Board with the necessary jurisdiction to issue a Cease and Desist Order against a trade union or to make an interim assignment of the work in dispute. However, it is made an offence under the Act (Sections 63 (3) and 65) to threaten an unlawful strike. Such offence, if proven, may form the basis for a consent to institute prosecution against the offender and if the Board grants consent, constitutes a summary conviction offence which is heard in Provincial Court (Criminal Division).

By way of example, by decision of the Board dated December 13th, 1971, in an application under Section 81 by Northdown Drywall and Construction Limited (O.L.R.B. File No. 1305-71-JD) the Board made an interim assignment of certain work in dispute to Local 562 since it was satisfied that a strike was imminent by reason of the assignment of work which was the subject matter of the dispute. Thereafter, the Carpenters' District Council of Toronto and Vicinity successfully obtained the Board's consent to prosecute Local 562 for threatening an unlawful strike (O.L.R.B. File No. 1386-71-U, decision of the Board dated April 14th, 1972) and this offence was thereafter prosecuted at Provincial Court resulting in the conviction of Local 562 for threatening an unlawful strike.

Ironically, it has been the Board's jurisdiction under Section 123 of the Act to issue Cease and Desist directions in the construction industry in instances of unlawful strikes or lock-outs or threats thereof, that has provided relief to Lathers' local unions as against the Carpenters' local unions. This remedy was introduced into the Act by the amendments thereto of February 15th, 1971 and has been utilized by Lathers' local unions to enjoin unlawful strike activity on the part of Carpenter local unions the object of which is always to prevent members of the Lathers' union from performing work on the job site. Attached hereto and marked as

exhibits 'H' 'I' 'J' are three decisions of the Board wherein Cease and Desist directions were issued against the Carpenters' union on grounds of unlawful strike or lock-out activity.

7 THE RESULTS TO THE LATHERS' LOCAL UNIONS OF THE CARPENTERS' UNLAWFUL CONDUCT

As a direct result of the unlawful activities by Carpenter local unions in order to obtain the exclusive control over drywall and acoustical ceiling systems in Ontario, the local unions of the Lathers' International have simply ceased to exist as viable local union entities.

By way of example, Locals 145 (Hamilton) chartered in 1945 and 551 (Kitchener), chartered in 1956 were compelled to merge with Local 562 in or about September 1972. Similarly, Local 360 (London), chartered in 1949 fell to the same pressures and intimidation on the part of the Carpenters' local unions and it now must merge with Local 562. During the autumn of 1973, the Carpenters chartered a new local union at London (Local 1316) which was formed for the specific purpose of bargaining with the employers who were formerly bound to the collective agreement with Local 360. This activity on the part of the Carpenters was supported by the London and District Construction Association and when the former members of Local 360 were without opportunity for employment, they thereafter were compelled to apply for membership in the new Carpenters' Local 1316. Local 360 is simply no longer a viable local union entity. Attached hereto and marked exhibit 'K' is a series of documents with respect to the formation of Local 1316 and the extinction of Local 360.

Similarly, Local 540 (Sarnia), chartered in 1955, has met the same fate as its sister locals: Its members have joined the local Carpenters' union and because of lack of union membership, the Lathers' International removed its charter in late 1973. For that matter, the Lathers' local unions located at Peterborough, Windsor, Sudbury and Kingston have experienced similar serious problems in their efforts to retain a separate craft union identity in the Lathers' International and if relief is not quickly forthcoming to them, they will obviously be forced to accede to the pressures being exerted by the Carpenters' local unions. A blatant example of the tactics deployed by the Carpenters herein and the results to a local Lathers' union is recorded in a brief submitted by the Lathers' International to the Canadian Labour Congress in 1971 with respect to Local 423 which has jurisdiction at Ottawa. Attached hereto and marked as exhibit 'L' is the said brief together

with the decision of the Impartial Umpire under the constitution of the Canadian Labour Congress, Senator H. Carl Goldenberg dated September 17th 1971 wherein he found that the United Brotherhood of Carpenters and Joiners of America was in violation of Article IV Section 3 of the said constitution.

8 RECENT ACTIVITIES BY THE CARPENTERS' UNION AT TORONTO

During the course of the Royal Commission's hearings herein, the Carpenter local unions in Ontario and in particular at Toronto, have not diminished their continuing attacks upon Lathers' local unions. Hereinafter is a brief resume of such recent activities:

1 2 Bloor Street East, Toronto, Ontario, Project

In the autumn of 1973, Local 562 members in the employ of Northdown Drywall and Construction Limited were engaged with respect to the installation of drywall and acoustics systems on Phases 2 and 3 at 2 Bloor Street East, at Toronto, Ontario. On November 30th, 1973, Local 562 was informed by the said Northdown that it had been requested to complete the balance of work on Phase 1 of the said project at the instance of the general contractor because of the bankruptcy of another acoustical sub-contractor, known as Productive Systems. Accordingly, Local 562 members employed by Northdown were directed to proceed with this work on December 3rd, 1973, but upon their arrival at the said project, they were confronted with a picket line of some 100 Carpenter members who surrounded the project in question. As a direct result thereof, the said Lathers were informed by their foremen not to proceed with the said work at Phase 1. Local 562 was then informed by Northdown that the Lathers contract with the general contractor for the completion of Phase 1 had been cancelled and thereafter, Local 562 was informed that another sub-contractor in contractual relations with the Carpenters' Union, Trident Drywall Limited, had been assigned the contract for the completion of the said drywall and acoustical work.

While Local 562's members suffered no immediate loss of wages herein, clearly, its future relationship with Northdown has been jeopardized if its members are simply unable to perform work assigned to them.

2 Travel Lodge Project

Northdown Drywall and Construction Company Limited also had a drywall and acoustical ceilings contract from the Austin Company Limited

with respect to its Travel Lodge Project. By letter dated January 4th, 1974, the Carpenters' District Council of Toronto and Vicinity advised the Austin Company Limited that the said Northdown did not employ members of the Carpenters' Union and requested the company '... to abide by the terms of the International Agreement signed between the Austin Company Ltd and the United Brotherhood of Carpenters and Joiners of America'. Attached hereto and marked exhibit 'M' is a series of correspondence and documentation with respect to that project. As before, the Lathers' short-run concern herein is that such activities on the part of Carpenters' will simply weaken if not destroy Local 562's contractual relationship with Northdown if that Company's current employees are unable to perform work assigned to them. On the other hand, the long-run concern herein is that such conduct, if unabated, will destroy Local 562 as a viable local union entity.

3 Harbour Square Hotel Project

On or about February 18, 1974, the Carpenters' District Council of Toronto and Vicinity placed a picket line at this project for approximately five days. While that union gave other reasons for this picket line, it was determined that the prime reason for the line was that Lido Drywall Limited, a sub-contractor which employed members of Local 562, had been awarded certain work for the project.

4 Lansing Square Project, Willowdale, Ontario

From May 6th until May 9th, 1974 inclusive, the Carpenters' District Council of Toronto and Vicinity on behalf of Locals 27, 666, 1133, 1963, 3227, and 3333 together with Carpenters' Union Local 1747, engaged in unlawful strike activity at the Lansing Square Project, an office building currently under construction for Manufacturers Life Insurance Company. Accordingly, on May 8th, 1974, an application was made to the Board under Section 123 of the Act for a Cease and Desist with respect to this unlawful activity. A hearing was held by the Board on May 14th, 1974, and after the commencement of the presentation of evidence on behalf of Local 562, counsel on behalf of these Carpenter Local unions admitted all of the facts in the application and consented to an Order going against the Carpenter local unions to Cease and Desist from the said unlawful strike activities.

9 CONCLUSION

In summary, as is amply illustrated from the foregoing, the Lathers' International local unions in the Province of Ontario have been subject to unrelenting pressure brought to bear by the Carpenters' local unions with the clear view to eliminating the lathers' organization as a viable union in the Province and to permit the Carpenters accordingly to exercise monopolistic control with respect to the interior systems sector of the construction industry.

The council and its affiliated local unions have received no relief or remedy whatsoever from the N.J.B. and its successor, The Impartial Jurisdictional Disputes Board for the Construction Industry. Accordingly, it is submitted that the solution to this problem involves the strengthening and if necessary, certain amendments to the Labour Relations Act of Ontario. More particularly, the council recommends the following amendments to the Act which it believes will permit a full and proper resolution of such disputes by the administrative board entrusted in this province with the adjudication of labour disputes, namely, The Ontario Labour Relations Board.

(a) Section 81 of the Act must be amended to include a clear definition of 'jurisdictional dispute'. Implicit in this recommendation is that there ought not to be any restriction with respect to any affected party's right and status to apply to the Board for this relief and it ought not to be necessary that both of the disputing trade unions 'require' the work in dispute to be assigned to their members by the primary employer.

(b) The Act ought to be amended so as to expressly provide thereunder that jurisdictional disputes, as so defined by the Act, may only be resolved by the Ontario Labour Relations Board under Section 81 of the Act and not by an arbitration board which necessarily involves but one of the two trade unions involved in the dispute.

(c) Further, it is submitted that the offence of threatening an unlawful strike, which was introduced into the Act by the 1971 amendments thereto, ought to be repealed: Ironically, it is a necessary prerequisite to the Board's jurisdiction to grant interim relief in a jurisdictional dispute that either trade union involved threatens an unlawful strike. However, in characterizing such activity as an offence under the Act, punishable by summary conviction, the availability of such interim relief is, to that extent, diminished with the result that the purpose and function of this remedial legislation is abrogated.

(d) Finally, the Act ought to be amended so as to nullify provisions in any collective agreement in the construction industry which restricts the employer's right to sub-contract out work to contractors of his own choice. As mentioned earlier, such 'no sub-contracting out' clauses are prevalent in the Carpenters' collective agreements and are too easily used as a device to restrict the opportunities for employment of Lathers' members. In essence, the enforcement of such clauses eliminates competition amongst trade unions and vis-a-vis the Carpenters' and Lathers' trade unions, has become part of a conspiracy to injure.

The council and its affiliated local unions sincerely trust that this Brief may be of some assistance in setting forth their bargaining history in this province and more importantly, in illustrating the serious problems now being confronted by them.

All of which is respectfully submitted

May 17th, 1974.

APPENDIX O

Building and Construction Trades Department AFL-CIO

The Advisory Board for the Building Trades in Canada consists of Senior Officers of the International Building & Construction Trades Unions as appointed by their respective General Presidents. There are fifteen unions with over 300,000 members in Canada.

The Advisory Board is very concerned that sound factual information is given or made available to you so that your report and recommendations might reflect a true picture of the preponderance of the industry. We are of the opinion that the Commission came into existence because of a few reported isolated instances of wrong doing and we are fearful that the medicine to cure a few isolated illnesses could have a severe adverse effect on the vast majority of the industry where problems did not exist. We do not condone any illegal acts and do not sympathize with any unethical practice, but we suggest that if the Commission, in its wisdom, determines that there were improper acts, they should recommend their isolation for cure and not recommend blanket remedies.

Professor H.D. Woods circulated a questionnaire to all Building Trades Councils, Senior Building Trades Representatives, employers and employer associations. I am sure that at the meeting our committee had with you and Professor Woods, you are aware that some of our Representatives have concern about the purpose of the document and concern about the right of anonymity. Most of the material requested on pages one through eighteen is statistics which are available from the various Councils and employer organizations, so we will try to give you our thoughts on other issues referred to such as jurisdictional disputes, hiring halls, building

trades structure, etc ... This should probably be followed up by another meeting in person with our committee to give detailed explanation.

A jurisdictional dispute is a difference of opinion in between two or more trades as to who should perform specific work. Tradesmen on the job are very often wrongfully blamed for creating jurisdictional work stoppages. Jurisdictional disputes are most often created before the trades arrive on the job by improper assignment of work, engineers or architects packaging work for one trade with work of sub-contractors who normally use another trade, new equipment coming on the market, lack of pre-job mark-ups and using economics as the prime criterion instead of jurisprudence from trade agreements and decisions of record.

Under the auspices of the Building & Construction Trades Department there is a procedure for the settlement of jurisdictional disputes, the title of which was recently changed from the National Joint Board for Jurisdictional Disputes to the Impartial Jurisdictional Disputes Board. That Board guarantees that a decision will be rendered within seven days of the information and dispute being submitted to them.

There can only be one effective jurisdictional disputes procedure. The Government of the Province of Ontario has seen fit to empower the Board of Industrial Relations to adjudicate on jurisdictional disputes. When there are two procedures, any party will go where they think they can get the best deal and the result is conflicting jurisprudence which creates chaos. Other provincial governments which gave the Board of Industrial Relations the authority to rule on jurisdictional disputes have since seen the error of their ways and have rescinded that authority in favour of the internal disputes procedure in the construction industry, namely the Impartial Jurisdictional Disputes Board. We feel, therefore, that the authority to deal with jurisdictional disputes by the Ontario Labour Relations Board should also be rescinded.

Multi-trade bargaining within the construction industry does not meet with popular approval. Building & Construction Trades Councils are not structured for or intended to be responsible for collective bargaining. There is however, a definite trend towards provincial bargaining by trades. This does not necessarily mean that one agreement one rate would apply to the entire province but rather that a single agreement could be concluded for the entire province for one trade or a sector of a trade. This can only be brought about by constitutional machinery established by each union.

Most craft organizations have qualifications for membership that require apprenticeship training and, therefore, require qualifying exams prior to being admitted. We feel the apprenticeship training system is second to

none in producing qualified journeymen. There are other means of partially learning a trade such as technical schools and such persons are fitted into the apprenticeship program after examination recognizing the degree of their previous training.

Trades are periodically subjected to criticism that they have among their numbers some who are not first class tradesmen. That criticism can only be avoided or minimized by examination of applicants and implementation of apprenticeship training and up-grading programs to ensure the employer and the industry of competent, qualified and productive tradesmen.

Some criticism has been levelled at the hiring hall procedure but let us assure you that justified criticism is an isolated situation, and in fact, it is a tried and proven process that is effective, fair and efficient as well as an economic solution to supplying manpower in the spasmodic nature of the construction industry.

Before hiring halls came into existence, there was considerable evidence of individual workers bribing foremen with liquor or money to obtain or maintain employment. Persons doing dispatching for a union hiring hall have a very demanding job and are under very close scrutiny, not so much by the management of the local but by the members themselves. Members know their position on the out-of-work list and many make it their business to know what jobs have been filled, or if someone obtained employment out of turn, the dispatcher would have to have a very good reason. Furthermore, a dispatcher could not accept one bribe and expect it to be kept a secret. A dispatcher who was known to accept a bribe would be subject to the most severe internal disciplinary action as well as the obvious available legal action.

It is virtually the policy of all hiring halls to give all employers who hiring through the union hall equal treatment. The only exception in some cases, by employer union agreement, is a priority for the employer to rehire persons who had previously worked for him. There is also unique and considerable degree of personalized service with a union hiring hall. For example, some people cannot climb or work in high places, older tradesmen need to have the opportunity for employment but may not be able to undertake a job outside in extremely cold weather and the dispatcher also soon gets to know of workmen who are less than satisfactory as they are the first laid-off or dismissed and he may be ineligible for rehire with some employers to the point that the member is wise to seek work in some other field of endeavour.

In summation, union hiring halls are fair because the union membership insists on it, are efficient because of the service demanded by the members

and the employers, are economical to the industry and the employers in that they make available a ready-pool of specialized skilled tradesmen to employers for short or long-term employment eliminating the costly alternative of employers retaining tradesmen in slack periods.

The questionnaire circulated by Dr. Woods made reference to the Building & Construction Trades Department and Councils chartered under the Department. Questions related to such things as structure, who is affiliated, who can affiliate, if they are responsible for collective bargaining among others. First, you will note that I have enclosed a copy of the constitution of the Building & Construction Trades Department which in the latter portion describes the basic structure to govern Local and Provincial Building Trades Councils. I am sure you will find the constitution quite self-explanatory.

International unions or locals of international unions look after their own business in its entirety. The Building & Construction Trades Department was organized February 10, 1908 by the American Federation of Labour and now is under the AFL-CIO. It is formed by the building trades unions to deal with matters of common interest as defined in the constitution. Local and Provincial Building Trades Councils chartered by the Department are established to provide a vehicle for local unions of the same international to get together on matters of common interest. It is mandatory that any local of an international union affiliated to the Department who request affiliation to a local Council be accepted on that application. It is not reasonable to assume, however, that any other local union could affiliate to a local Council as their parent body would have to be affiliated to the Building & Construction Trades Department, AFL-CIO to ensure that they would live up to the constitutional rules and regulations of the Department.

The whole question of whether an outside union can affiliate to a Building Trades Council is of little consequence as the Councils are fraternal. Councils do not direct local unions nor does the Department direct the internationals. Quite the contrary, the authority and direction is from the unions.

Another matter that has been brought to your attention is health, welfare and/or pension plans. Most of these plans have been started by individual local unions through their collective bargaining procedure which was the only possible way. Many trades have negotiated provincial, national or even international reciprocity agreements to provide portability of benefits, reserves, premiums or freezing benefits, whichever is appropriate. The others are developing such an arrangement as more plans come

into effect. If your investigation finds that some persons are not receiving benefits for their contributions, your recommendations should deal with that particular situation taking into account the actuarial feasibility of the situation. We would strongly suggest that your recommendations are not blanket in nature that might impede the ability of the vast majority of plans to provide proper, desperately needed coverage to workmen in the construction industry. Most plans are presently governed by trustees from unions and employers who are devoting a great deal of time, effort and personal ability to provide the best possible plans available to them.

I trust that this material will be of assistance to you in formulating your report. Again let me say that we would be pleased to have the Ontario Representatives on the Advisory Board meet with you to verbally supplement this presentation at a mutually convenient time, approximately the first week in June.

Sincerely yours,

James A. McCambly
Executive Secretary,
Advisory Board for the Building Trades in Canada.

UNION HIRING HALLS

INTRODUCTION

Union Hiring Halls arose as a result of the unionization of trades workers who normally work in relatively short term full time employment with a number of employers and/or at a variety of work locations during the year. Trades workers initially organized to obtain negotiating strength for their members. This negotiation is carried out with groups of employers or employer associations in order to establish rates of pay, fringe benefits and working conditions.

A natural evolution of this collective bargaining process was, therefore, that employers who recognized the agreement made their labour demands through the trade union. This allowed them to use a common pool of qualified labour and avoided the necessity of carrying labour on their payrolls awaiting contract work to materialize. The trade union, in response, established union hiring halls in order to meet the labour demands of the employers recognizing the trade union.

However, not all potential employers are party to the collective agreement, nor are all occupationally capable tradesmen members of the trade union. Approximately 280,000 trades workers obtain their employment through registration with hiring halls. This represents approximately 80% of the labour in this industry.

From the UIC's point of view it is essential that eligibility for benefits be determined in accord with the requirement that claimants be available for work and unable to obtain suitable employment. This eligibility requirement is generally satisfied when claimants can demonstrate that they are carrying out a personal search for suitable employment. This raises difficulties for those claimants who normally obtain their employment through a union hiring hall because this facility is generally their single source of employment.

From the trade unions' point of view it is essential that the agreements reached through the bargaining process are honoured and that their members' eligibility for UI benefits not be affected by virtue of their union membership.

From the employers' point of view, whether they recognize the trade union or not, it is reasonable for them to expect that vacancies in a trade do not exist at the same time as UIC is paying benefits to unemployed workers with trade capabilities that would meet their needs.

Clearly, it is in everyone's interest to establish practical lines of communication and information exchange to ensure that registered tradesmen are immediately exposed to suitable job vacancies and that unemployment insurance is extended to only those who fulfill all the requirements of eligibility.

OBJECTIVE

To identify and obtain agreement from Trade Unions and Employer Associations on special control reporting procedures to establish eligibility for UI benefits for trade union employees.

BACKGROUND

The Insurance Policy Guideline titled 'Conduct of the Active Job Search Program' contains a paragraph relating to hiring halls as follows: (Excepted from the Active Job Search Program are those:)

'Who normally obtain their employment through either employer operated or union sponsored hiring halls for a limited period from interruption of earnings. The length of this limited time is to be calculated in accordance

with existing jurisprudence; that is, a basic 3 weeks plus 1 week for every year of experience in the skill or occupation to a maximum of 13 weeks. *Exceptions outside this limited period are those claimants who are registered with union halls with which the Commission has made special control reporting arrangements.* In these cases a reasonable and customary job search will be deemed to be satisfactory when it has been confirmed that the claimant is in fact registered with the hiring hall. This may be done either through individual statements or general listings obtained from the hiring hall itself.'

LIMITATION

Any special control reporting procedures will be limited to those Hiring Halls which are 'recognized' by the Commission. In order to meet the requirements of recognition the following minimum criteria must be met:

1. The hiring hall (or the obvious need for a hiring hall) must be clearly identified in a formal agreement between a trade union(s) and employers or an employer association.
2. An orderly procedure for registration and dispatch must exist within the Hiring Hall.
3. Access to Hiring Hall records must be guaranteed to UIC Officers.
4. All employer demands not filled by the Hiring Hall must be reported to the Commission.

RIGHTS OF HIRING HALL FOLLOWING RECOGNITION

1. The Active Job Search program will not be applied to tradesmen registered for employment in the Hiring Hall.
2. Registered tradesmen will be deemed to be 'available for work' and fulfilling the requirements of the Active Job Search program without time limit, provided they are not unreasonably refusing suitable employment offered to them.
3. No action will be taken to disqualify an individual claimant for refusal of work of duration less than one full working week. (Provided all short term trades labour demands are met by the Hiring Hall. This assumes that short term work refusal was in anticipation of full time work.)

OBLIGATIONS OF HIRING HALL FOLLOWING RECOGNITION

1. All employer demands whether short term or full time regular not filled must be reported to the Commission.

2. Hiring halls must accept and fill labour demands from Canada Manpower Centres provided:

(a) the employment offered is suitable and

(b) all labour demands from employers who normally use the hiring hall have been filled.

3. Certification of trades registration must be given on demand from the Commission.

4. Business Agents must be available for discussion with benefit control investigators prior to interviews with claimants.

5. Records of registered tradesmen, employer labour demands and demands unfilled must be acceptable to Commission.

PROPOSED ACTION

1. Detailed discussions with National and Regional executives of Building Trade Unions (AFL-CIO).

2. Detailed discussions with Canadian Construction Association, Canadian Manufacturers' Association and Chambers of Commerce.

3. Analysis of existing Commission/Union Hiring Hall control reporting procedures.

4. Development of Draft control reporting procedure.

5. Approval of procedure by national employer and employee organizations following Commission approval of policy guideline.

6. Preparation of information pamphlet.

NOTE: Completion of 5 above is intended prior to the National Building Trades Conference in Vancouver in early May.

APPENDIX P

The United Brotherhood of Carpenters and Joiners of America Local 1747

INTRODUCTION

1. This brief is submitted to the Commission in response to a brief presented by the Inter-Provincial Council of Lathers. While, in the view of the United Brotherhood of Carpenters and Joiners of America Local 1747 (hereinafter referred to as the 'Carpenters Union'), there are problem areas of serious concern in Union-Management relations under Ontario labour laws pertaining to the construction industry, which could and should be changed for the overall improvement of these relations as well as the position of employees and the public, it was thought that most of these matters were really beyond the purview of this Commission's limited inquiry. Accordingly, it was not the original intention of the Carpenters Union to present a brief to the Commission. The Carpenters Union felt that the Briefs submitted by the Council of Concrete Forming Trade Unions, and the Toronto Building and Construction Trades Council, sufficiently expressed its views and sentiments on the subject matter for purposes of this Commission.

The fact, therefore, that the Carpenters Union did not submit an extended Brief prior to this time was certainly not because of any lack of appreciation or concern on its part that there were problems and difficulties in Labour-Management relations and laws in the construction industry which require examination with a view to improvement. It is the purpose of the Carpenters Union in this Brief to indicate to the Commission some of the more obvious matters which may be of interest and assistance to the

Commission. Hopefully, this may assist the Commissioner to pursue the problems further, if, in his discretion, the subject-matter is sufficiently relevant to his inquiry. The Carpenters Union, therefore, has purposely made this Brief a form of short reply to the Lathers submissions with the understanding that if the Commissioner wishes to pursue any question further representatives of the Carpenters Union will welcome the opportunity to discuss the matter with him.

THE CREDIBILITY OF THE LATHERS' BRIEF

2. It is manifest that much of what is contained in the Brief of the Lathers concerning the causes and effects of the organizational rivalry between that Union and the Carpenters Union, including the alleged improprieties committed by members of the Carpenters Union against the Lathers, are in the nature of subjective allegations, more visceral than factual and for the most part tell only part of the story. Further, much is left undisclosed which would otherwise give the matter an explanation and a different complexion.

3. It is a matter of interest that the Lathers have not seen fit to mention that before it 'voluntarily recognized Local 562' as bargaining agent for certain 'employees engaged in the installation of drywall systems' (as mentioned on page 7 of the Lathers Brief), the Drywall Contractors Association of Ontario, had signed a collective agreement with the Carpenters District Council of Toronto and Vicinity. This agreement, a copy of which is attached as Exhibit 1 hereto, was made on the 27th of May, 1963. This is relevant to the question of who was 'raiding' who when the Lathers were 'voluntarily' recognized in 1970 by the same employer association. Contrary to the impression sought to be created by Local 562 of the Lathers, officials of this Local, were very active at this time in seeking to undercut the carpenters' rates to obtain through voluntary recognition and voluntary agreements all of the drywall and related work which had and was being done by members of the Carpenters Union.

4. Again, contrary to the allegations made by the Lathers, the motivation for the voluntary agreement between the Lathers Local 562 and the Drywall Association of Ontario, was simply the desire on the part of the Lathers to get the work and increase their memberships and dues at the expense of the Carpenters, and on the part of the employers to pay less than they would otherwise have had to pay in rates for Carpenters. It is open to question, whether at the time the Lathers signed the voluntary agreement with the Drywall Association, they had any, or sufficient, members among

the employer members of this Association to be entitled to represent the employees under the Labour Relations Act (see Section 1(e) of the Labour Relations Act).

5. Mention is made in the Lathers' Brief of a preference for a piece-work basis of payment by many new members of Local 562 who had been previously employed on an unorganized basis in the residential sector (see page 8, Lathers' Brief). Note is also made in the Brief that the membership of Local 562 agreed to the introduction of the piece-work incentive basis of employment. When a person is employed on piece-work he gets paid for the job, and, it appears, is really more of an independent contractor than an employee under the Labour Relations Act. Independent contractors are not employees and cannot be represented under a collective agreement within the meaning of the Labour Relations Act. An independent contractor would not receive any welfare benefits, vacation pay, unemployment insurance, Canada Pension Plans, or, in many instances, workmen's compensation. It is of interest that Gus Simone in his testimony to the Commission made reference to the fact that he had struggled to bring Croation 'piece-workers' from the residential sector into the Union. It is also of interest that Simone claimed that membership in Local 562 had increased from about 350 to about 1,400 since the formation of the Local, when the residential section of Local 97 Lathers broke away to form Local 562. How many of those claimed 'members' are really independent contractors? It is notable in his testimony to the Commission, that Simone admitted that the Local only registered about one-third of its members for the purpose of paying *per capita* tax to the International Lathers Union. The Carpenters Union believes that a significant portion of the so-called members of Local 562 are indeed made up of persons who in fact work as independent contractors and not as employees under the Labour Relations Act.

6. Northdown Drywall and Construction Limited, a Company frequently referred to in the Brief of the Lathers, was instrumental in the formation of a new Drywall Association, Interior Systems Contractors Association. This Company, of course, was formed by the principals Cesaroni Brothers, Gambin Brothers Limited and Donaldson-Barron Limited. Local 562 became a 'welcome union' to Northdown because it was prepared to enter into a voluntary (or 'sweetheart') recognition agreement providing for lower wage rates and less favourable terms of employment than Local 97 and permitted a piece-work basis of payment.

7. In 1965, the Ontario (Orliffe) Jurisdictional Disputes Commission ordered Donaldson-Barron Limited which had an agreement with Local 1747 of the Carpenters, to re-assign the erecting of drywall work which it had

assigned to the Lathers to members of Local 1747 Carpenters. Copies of decisions of the Jurisdictional Disputes Commission involving Donaldson-Barron Company Limited on two projects and requiring the re-assignment of this work from the Lathers to the Carpenters are attached and marked Exhibit 2 hereto. While this work was found clearly to be within the craft jurisdiction of the Carpenters Union, the Lathers nevertheless set out to take it from the Carpenters, and subsequently were able to obtain such work from Northdown Drywall and members of the Interior Systems Contractors Association of Ontario at wage rates lower, and employment terms less favourable, than Carpenters. Further, employees of Northdown at projects at Hyatt House and Four Seasons Hotel, reported to the Carpenters that Northdown was paying them even less than the rate stipulated in its collective agreement with the Lathers. When they complained of this to Simone, he is reported to have told them that if they did not like it they could quit.

8. The memberships of Ottawa Local 423 and Toronto Local 97 elected themselves to defect to the Carpenters Union because of the bad deal which they were getting as Lathers from the Lathers Union. Former officers of these Locals who now hold office with the Carpenters are bitter in their denunciation of the treatment which they received at the hands of the Lathers.

9. The rivalry which is spoken of in the Lathers Brief between Locals 97 and 562 resulted from the fact that members of Local 97 were increasingly losing work because members of Local 562 were prepared to work for lower wages and less favourable working conditions and, as a matter of economic considerations, employers were prepared to favour the cheaper labour offered by Local 562. Also, pressure was applied by the President of the Lathers Union, at the behest of Ken Weller, to compel a merger of Local 97 into Local 562 so that they would all be required to work under agreements of Local 562. The rivalry did not result from a jurisdictional dispute, as the Lathers in their Brief would have the Commissioner believe. It resulted in a large measure from the fact that Simone and Weller were intent on destroying Local 97 and obtaining its membership and dues and a complete monopoly of the work for Local 562. The Carpenters Union also believes that there were added incentives in the form of favours and kick-backs from employers.

10. Employers, in the like of Northdown, saw a substantial advantage to themselves over their competitors arising from this rivalry and were, therefore, anxious to assist in and accommodate the speedy take-over by Local 562 because it meant cheap rates for Lathers and they preferred the

easier and more co-operative relationships with Simone and Weller.

11. As part of the scheme to destroy Local 97, the General President ordered Local 97 to merge with Local 562 and ordered all the work to be done by 562. Local 97 then initiated court proceedings for an injunctive relief.

12. This action for an injunction was initiated after Weller and Local 562 had taken a position that the merger had been effected by General President Georgine's orders and had sent notices to this effect to the Drywall contractors and had removed the books and records from the office of Local 97 and transferred them to Local 562.

13. Following the initiation of this litigation, the Lathers International and Local 562 agreed to and did return all of the books and records of Local 97 and abandoned their attempt to compel the merger. It was in consequence of, and part of this settlement that the action did not proceed further. At the same time proceedings for consent to initiate a prosecution were brought under the Labour Relations Act by Local 97 to prosecute the Lathers on the grounds, among other things, of the intimidation of its members. This application was not dealt with on the merits but was dismissed on a technicality.

14. During this same period, Local 97 was taking a position that Northdown was bound to bargain with it as the bargaining agent for its employees, because of the successor rights provisions of the Labour Relations Act, and the expired collective agreements which Local 97 had with its predecessors, Cesaroni, Gambin and Donaldson-Barron. Northdown claimed that it was an independent Company which just happened to have the same principals. In proceedings on the basis of these expired agreements, Local 97 claimed a right to bargain with Northdown and asked for the appointment of a conciliation officer. At first Northdown resisted this on the grounds that Local 97 had no bargaining rights but eventually consented to the appointment. A conciliation officer was later appointed but Northdown continued to refuse to bargain in any meaningful fashion. A 'no-board' report was later made following which Local 97 called a 'legal' strike and picketed the job sites of Northdown. However, sister Local 562, which had entered into a 'sweetheart' arrangement with Northdown under which it provided all of Northdown's employees, at rates and working conditions that undercut those which would have been required by Local 97, ignored Local 97 pickets and continued to provide Northdown with Lathers. Finally, in desperation Local 97 brought an application to the Ontario Labour Relations Board for a declaration that Local 97 was the sole bargaining agent for the employees of Northdown. This application

was, of course, vigorously opposed by Local 562 and Northdown. The basis of their attack, which was successful, was that the old agreement which had been negotiated by the Provincial Council of Lathers and prepared or approved by its lawyers, and which in similar form had been the basis of an agreement between contractors and unions for years, was defective in its compliance with the Ontario Labour Relations Act. This represented a major victory for Local 562 in its objective to destroy Local 97. It was because of this, and the growing disenchantment of the members of Local 97 with the Lathers Union and with the sleazy tactics and unfavourable notoriety which the Lathers Union had received through representatives Weller and Simone, that the membership of Local 97 finally decided by an overwhelming majority to defect en masse to the Carpenters Union. The account of this defection in the Lathers Brief is less than accurate or complete.

15. It was also reported to officials of the Carpenters Union that persons who were being supplied by Local 562 as 'Lathers' to Northdown were really unqualified as journeymen lathers. Apparently, this was also a reason for Local 562 wishing to merge with Local 97 because it would have given Local 562 a nucleus of highly skilled members.

JURISDICTIONAL DISPUTES AND RELATED PROBLEMS

16. Under the jurisdictional provisions of the Constitution of the International Brotherhood of Carpenters and Joiners of America, which are based on its craft and trade jurisdiction as established over many years, acoustic and drywall application work is noted as being included within the craft of the Carpenters. One of the separate craft job classifications given to this type of work by the Carpenters is that of the drywall and acoustic mechanic. Attached and marked Exhibit 3 is a copy of the Constitution of the Carpenters Union, together with a copy of the collective agreement made between the Acoustical Association of Ontario and The Ontario Provincial Council, United Brotherhood of Carpenters and Joiners of America, expiring on 30th of April, 1974, marked Exhibit 4.

17. The Acoustical Association of Ontario and The Ontario Provincial Council are and have been for years parties to successive collective agreements covering members performing the work which is claimed by the Lathers (see Article 4 of the attached agreement) Local 1747 of the Carpenters is the Local which is primarily engaged in this type of work. A course of training has been established for drywall and acoustic mechanics which is

approved and recognized by the Department of Labour. Attached and marked Exhibit 5 is a copy of the programme of training for this job classification. Also, of course, the Regulations of the Department of Labour under the Apprenticeship and Tradesmen Qualifications Act have long contained training requirements for acoustic ceilings and lathing work. This is noted in the Regulations pertaining to the general carpenter attached and marked Exhibit 6 to this Brief.

18. The Carpenters do not agree as put in the Brief of the Lathers that 'one of the root causes of the jurisdictional disputes between the Carpenters and the Lathers stems from the decisions of the National Joint Board now known as the "Impartial Jurisdictional Disputes Board."' The Joint Board procedures and the procedures of its successor, the Impartial Jurisdictional Disputes Board, created for the solution of jurisdictional disputes were, of course, set up as a result of agreements made between the International Unions in the Construction Industry including the Carpenters and Lathers. Moreover, these authorities for the determination of jurisdiction disputes have been accepted as well by various employer associations in the construction industry including the major employers in Ontario.

19. Whereas the National Joint Board and its successor the Impartial Jurisdictional Disputes Board have, it appears, sought to award in favour of established and traditional craft claims, the Ontario Labour Relations Board has looked at other criteria, including matters of pure economy. It appears that the Ontario Labour Relations Board has given considerable, and it is arguable, undue weight to the factor of economy while not giving sufficient consideration to established craft claims. The known emphasis which the Ontario Labour Relations Board has seen fit to place on the test of economy simpliciter has encouraged employers, including Northdown Drywall, to make agreements with the Lathers to do drywall work, at less than Carpenters rates, with the expectation that all original work assignments to the Lathers under such agreements will be upheld by the Board on the grounds of economy. This criteria which has been applied by the Ontario Labour Relations Board has actively encouraged jurisdictional disputes. Moreover, it has resulted in feelings of dire frustration on the part of craft unions, including the Carpenters Union, which has, in consequence, on occasion, felt compelled to resort to self-help through the only means available, i.e. a work stoppage, in an effort to preserve the livelihood of its members. It is understandable, therefore, that the Lathers Local 562 is not sympathetic to the National Joint Board and favours the Ontario Labour Relations Board.

20. Attached is a copy of a national decision from the National Joint Board on the matter of 'ceiling systems' which may be of interest to the Board and is marked Exhibit 7 hereto.

21. The Lathers Union has, it seems, been prepared to accept decisions of the National Joint Board so long as it awards in its favour but when the award is adverse to this Union, based upon traditional craft claims, the Lathers have complained and resorted to the courts. Attached is a copy of the analysis and comments of the National decision of the National Joint Board which refers to litigation brought by the Lathers Union in the Dunlop case. This document is marked Exhibit 8 hereto.

22. A recent example of the use of the Impartial Joint Board by the Lathers is exemplified in the correspondence referred to on page 22 of the Lathers Brief. As a matter of interest, the work referred to at the Travel Lodge project mentioned in this correspondence has continued to be performed by Carpenters. Additional correspondence received in connection with this matter subsequent to the Lathers' Brief is attached as Exhibit 8A and shows a different reason for the removal of Northdown.

23. Attached is a photostatic copy of a letter dated the 7th of May, 1973, sent by Mr. Weller to Aykroyd Construction Limited, and marked Exhibit 9 to this Brief. The Commission will find the letter self-explanatory and indicative of the tactics employed by Local 562 in its competition to take work from the Carpenters.

24. The litigation referred to on page 15 of the Lathers Brief did not proceed to a trial on the merits because Local 97 of the Lathers Union and the Carpenters reached an understanding, without admission of liability, that for the future both would refrain from committing any of the acts complained of in the pleadings. It is of interest that an action was also brought by representatives of the Carpenters Union against the representatives of Local 97, including Weller. The Carpenters in this action also moved for injunctive relief to restrain the Lathers and Weller from illegal strikes and threatening the same. Attached as Exhibit 10 is a photostatic copy of the Writ of Summons issued by the Carpenters Union against Weller and the other representatives of Local 97, together with a copy of an Affidavit sworn by Alfred Joseph Leger deposing to illegal strike activities and threats undertaken by representatives of Local 97 and Weller.

'NO-SUBCONTRACT' - UNION SECURITY AND PROVINCE WIDE MONOPOLIES

25. The Lathers in their Brief seek to make something uniquely sinister or

monopolistic out of the 'no-subcontract' clause contained in Carpenters agreements. Attached is a copy of a standard agreement of the Inter-Provincial Council of Lathers and Affiliates, and marked Exhibit 11 to this Brief. It is of interest to compare Article 7 of this agreement, which requires employers to employ only members of Unions for which the employer has an agreement, with the Carpenters sub-contract clause. A recent Province-wide agreement signed between Local 562 and the Interior Systems Contractors Association, marked Exhibit 12 to this Brief, is more obvious. This incorporates a detailed Union and jurisdictional security and recognition clause setting forth in wide and specific terms the claimed craft jurisdiction of the Lathers. It hardly lies in the mouth of the Lathers to accuse the Carpenters of monopolistic agreements (see Articles 4 and 15). It is also of interest that this agreement in Article 8 contains a provision which entitles the employer to apply 'a system of remuneration for the erection of drywall Gypsum board for the duration of this agreement.' Obviously this entitles the employer at its option to utilize a different basis of payment than hourly rates as provided for in the agreement and would accommodate a form of piece-work payments.

26. It is also a matter of interest that Article 16.02 of the foregoing agreement makes the Union responsible for all legal fees incurred by the employer in cases where the employer is involved in a jurisdictional dispute with the approval of the Union. This means that where a jurisdictional dispute is initiated or prosecuted by the employer with the approval of the Union against another Union, Local 562 is responsible for the employer's legal costs. A clause similar in form appears in the earlier agreement between Local 562 and this association. This provision obviously serves to promote the type of situation which developed in the Northdown Drywall Construction Limited case referred to in the Lathers Brief. In that case, the Carpenters had a collective agreement with Camston Limited under which the latter Company agreed not to sublet work except to subcontractors who employed members of the Carpenters Union. When, contrary to this agreement, the work was assigned to members of Local 562 by Northdown, the Carpenters submitted a grievance to the general contractor Camston Limited. The Carpenters had no collective agreement with Northdown and accordingly made no demands for an assignment of the work from that Company. Following the submission of the grievance, however, to Camston Limited, the latter Company advised Northdown that the work had to be either assigned to Carpenters or the Company had to agree to save Camston Limited harmless from any liability incurred by that Company as a result of the Carpenters' grievance.

27. Northdown then immediately advised Weller and Simone, representing Local 562, of what had happened and of the grievance submitted by the Carpenters to Camston Limited and what Camston was requiring it to do. Weller and Simone then conveniently threatened Northdown with an illegal strike if the work was re-assigned to the Carpenters. Armed with this threat, Northdown then went to the Ontario Labour Relations Board and obtained an interim cease and desist order under Section 81 (8). This section provides that where a complaint is made that one trade union is requiring work to be assigned to it rather than to another trade union, and it is *alleged that a strike is imminent*, 'the Board may, *after consulting* any employer, – trade union – make an interim order with respect to assignment of the work as in its discretion it considers proper.' The Board, thereupon, as is its usual practice, issued an interim cease and desist order in favour of maintaining the status quo original work assignment until a decision could be made later on the merits of the dispute. Following the interim order, an application was made by the Carpenters Union for consent to prosecute Local 562, Simone and Weller, for threatening an illegal strike. The Carpenters also replied in the jurisdictional dispute proceedings taking the position, among other things, that the proceeding did not constitute a proper jurisdictional dispute and alleging subterfuge and conspiracy on the part of the Lathers and Northdown to work together to abuse the processes of and hoodwink the Board. Later, before the matter could be heard by the Board, and after the work was substantially completed, Northdown, not unexpectedly to avoid a showdown on the merits and its role in the matter, withdrew the complaint. The interim cease and desist order provided by the Board was, therefore, used by the Lathers and Northdown as a convenient stratagem to preserve the original assignment until the work was substantially completed. While this constituted a flagrant abuse of the Board's procedures, because of the obvious subterfuge, it was nevertheless extremely successful in serving the purposes of the Lathers. Such permitted tactics by the Ontario Labour Relations Board contribute to a disrespect for the law, and a lack of confidence in the Labour Relations Board as a competent tribunal to administer it. It borders on the incredible to read in the Lathers' Brief that they advocate the repeal and removal of the prohibition in the Act against threatening illegal strike. As they did point out, Local 562 was later convicted by a Provincial Court Judge and fined for threatening the illegal strike. It was this strike which induced the Ontario Labour Relations Board to become an unwitting pawn in the conspiracy of Northdown and 562 to preserve the original assignment of the work to Lathers until the work was substantially complete. Unfortu-

nately, also to their advantage, the Ontario Labour Relations Board did not move with much expedition in the processing of this dispute to a hearing on the merits.

28. Reference is made in the Lathers' Brief to a Carpenters' picket line which had been set up on a project at 2 Bloor Street East, Toronto (see page 21 of the Brief). The work in question had been done by Carpenters who had been working for a contractor known as Productive Systems Limited. This Company had suddenly gone out of business owing substantial amounts of wages and vacation pay to each of the carpenters. The Carpenters, who, understandably, were bitter and frustrated for not being paid their wages, picketed the job site protesting the non-payment of their wages and vacation pay.

29. Contrary to the impression sought to be created in the Lathers' Brief at page 23, the pickets placed on the Harbour Square Hotel Project were there in consequence of a legal strike following a no-board report, with the General Contractor Campeau Corporation Limited. It is of interest that the Lathers employed by Lido Drywall Limited who worked on the project before the strike and pickets, continued to work on the project after the Carpenters Union signed a collective agreement with the General Contractor and completed the job.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Norman LeBlanc

President, Local 1747, The United
Brotherhood of Carpenters and
Joiners of America

W. Johnston

Business Representative, Local 1747,
The United Brotherhood of Carpenters and
Joiners of America.

APPENDIX Q

Certification, Accreditation, Jurisdictional Disputes, and Section 123 Cases Disposed of by O.L.R.B. in Fiscal Year 1973-4

This memorandum consists of two parts. Part I examines the distribution of certification, accreditation, jurisdictional disputes, and section 123 cases disposed of by the OLRB in the fiscal year 1973-4 among the construction and non-construction panels of the Board. Part II gives an account of all the accreditation applications received since the accreditation provisions were included in the Ontario Labour Relations Act in February 1971. Data on Part I are provided in Tables 1 and 2, and those on Part II in Tables 3, 4, and 5.

STRUCTURE OF TABLES 1 AND 2

In Tables 1 and 2, the designation 'C Member' refers to the construction employer and employee representatives on the OLRB; 'NC Chairman' refers to a non-construction vice-chairman of the Board; and 'NC Member' refers to a non-construction representative. The construction members of the Board consist of vice-chairmen Franks and Furness and representatives Ade and Boyer. All the other vice-chairmen and representatives are non-construction members.

The two construction vice-chairmen, Franks and Furness, are named at all times in Tables 1 and 2, when accounting for the cases they handled. Where the two construction representatives, Ade and Boyer, both participated in a case with either Franks or Furness, they are also named. However, where both Ade and Boyer, or either of them, dealt with a case with any of the non-construction members, including the non-construction vice-chairmen, they are referred to merely as 'C Members.'

DISTRIBUTION OF CERTIFICATION, ACCREDITATION,
JURISDICTIONAL DISPUTES, AND SECTION 123 CASES*Certification applications*

Data on the distribution of certification applications among the construction and non-construction members of the OLRB are presented in Table I in two parts. Part A relates to construction applications and Part B to non-construction applications.

Construction applications

As Table 1A shows, 463 construction certification applications were disposed of by the OLRB in the fiscal year 1973-4. The overwhelming majority of them, 97.7 per cent (452), were handled by the two construction vice-chairmen, Franks and Furness. In 71.5 per cent (331) of the cases, a full construction panel composed of either Franks or Furness and Ade and Boyer participated. In 8 per cent (37) of the cases, a mixed panel, comprised of Franks or Furness, one other construction member, and a non-construction member, dealt with the application. There were 54 cases (11.7 per cent) handled by either Franks or Furness alone. These cases were withdrawn within two to four days after they were filed, and therefore required only an administrative decision by a chairman.

Non-construction chairmen dealt with 11, only 2.3 per cent, of the construction applications disposed of. A full panel processed 4 of these cases, and in 2 of them a construction member participated. The participation of all non-construction members in construction cases amounted to 78 applications, 16.8 per cent of the total disposed of.

Reed and Brown were the chairmen in the 11 cases that were not handled by the two construction chairmen. While they were included among the non-construction members, they were not unfamiliar with the problems of construction applications. Reed was the chairman of the construction industry division when it was first established by the 1961 amendments to the act; and Brown headed it when Reed became chairman of the Board in 1966. Accordingly, all of the construction cases disposed of in 1973-4 were handled by chairmen who were experienced in dealing with such applications.

Table 1A further shows that all but 2 of the 112 hearings held in the construction cases were conducted by the two construction chairmen, Franks and Furness. A full construction panel accounted for 59.1 per cent of the total time taken in these hearings. On the other hand, 98.3 per cent of the total hearing time involved the construction members.

Non-construction members' participation in construction case hearings amounted to 40.9 per cent of the total time recorded.

Non-construction applications

The Board disposed of 833 non-construction certification applications in the fiscal year 1973-4 (Table 1B). The two construction chairmen, Franks and Furness, handled 10.2 per cent (85) of them, and used up 16.4 per cent of the total time spent in the hearings in these cases. These are larger proportions than the 2.3 and 1.7 per cent accounted for, respectively, by non-construction chairmen who dealt with construction cases. All the construction members participated in 26.9 per cent of the non-construction cases, compared to the 16.8 per cent participation rate for all non-construction members in construction cases. However, the construction members spent less time in the hearings involved in the non-construction cases they dealt with than the non-construction members took in the hearings in the construction cases they handled, 34.9 per cent as against 40.9 per cent.

The heaviest concentration in the handling of non-construction cases occurred among the non-construction chairmen. They dealt with 89.8 per cent of the cases, and spent 73.6 per cent of the time taken in the hearings in them. When all the non-construction members are considered, the proportions increased to 96.1 and 81.3 per cent, respectively.

Accreditation, jurisdictional disputes, and section 123 cases

Because few of these cases were disposed of in the fiscal year 1973-4, and because of their limited distribution among the members of the Board, data on them are presented in one table (Table 2). All of these cases apply to the construction industry.

Accreditation cases

A full construction panel composed of Franks, Ade, and Boyer handled 18 of the 21 accreditation cases disposed of in 1973-4, and accounted for 61.3 per cent of the time taken in the hearings held in them. Of the remaining three cases, one was handled by a mixed panel headed by Franks, and two by a mixed panel headed by a non-construction chairman. Thus, the construction members participated in all the accreditation applications disposed of.

Jurisdictional disputes cases

Only three jurisdictional disputes cases in the construction industry were

disposed of in 1973-4. None of them was handled by a full construction panel, but construction members participated in all three.

Section 123 cases

Unlike the other categories of construction cases, construction members took little part in the processing of section 123 cases. They were involved in only 4 of the 22 cases disposed of in 1973-4. None of the 4 was handled by a full construction panel, and only in one case was the panel headed by a construction chairman. The bulk of the section 123 cases (15) were dealt with by a non-construction chairman. All 15 cases were, however, withdrawn before formal action was taken. As a rule the majority of section 123 cases are withdrawn before the formal stages of processing and, therefore, only an administrative decision by a chairman is necessary to dispose of them.

Summary

Of the 1296 certification cases disposed of in the fiscal year 1973-4, the construction members of the Board handled the large majority of the cases relating to the construction industry. Similarly, the non-construction members dealt with the large bulk of the cases in industries other than construction. Construction members were involved in all the accreditation and jurisdictional disputes cases, but they took little part in section 123 cases. The use of mixed panels of construction and non-construction members, and assignment of non-construction cases to the construction panel and of construction cases to the non-construction panels are explained by the Board's efforts to cope with its increasing caseload and to fulfil scheduling timetables.

ACCREDITATION APPLICATIONS SINCE FEBRUARY 1971

The provisions of the Ontario Labour Relations Act permitting employer groups in the construction industry to seek accreditation to represent contractors have been in effect for more than three and a half years. As of 15 September 1974, only 54 applications were made to the OLRB for this right. Accreditation was granted in 38 cases: 8 cases were dismissed, 2 withdrawn, and 8 were pending.

Tables 3 and 4 show that the 38 accreditations that have been granted were issued to 22 construction associations representing 2152 contractors employing 19,005 workers in 14 trades, of which plumbers are the largest group. Seven of the accreditations apply on a province-wide basis and 31

are limited to an area. The geographical coverage of the 38 accreditations corresponds to that of the collective agreements involved.

Ten of the 19 unions that negotiate agreements in the construction industry are affected by the accreditations that were issued by the Board. Table 5 lists the ten unions, and relates the accreditations to the agreements they have. As shown, the 38 accreditations apply to 16.4 per cent of the 232 construction pattern-setting agreements that the ten unions now hold and affect 25.1 per cent of the 75,613 employees under the terms of these agreements.

By individual union, all construction workers covered by the Boilermakers' Union's province-wide agreement are under accreditation. The Structural Iron Workers' Union was half of its agreements involved in accreditation, covering 70.4 per cent of the employees they represent. Accreditation affects 46.3 per cent of the construction agreements held by the Plumbers' Union and 44 per cent of the workers under these contracts. More than a fifth (22.6 per cent) of the Sheet Metal Workers' Union's agreements, covering more than half (53.3 per cent) of the employees affected, are under accreditation. Fewer than 10 per cent of the construction agreements negotiated by the Carpenters', International Operating Engineers', Labourers', Plasterers', and Teamsters' Unions come under accreditation; and between 7.3 and 20.8 per cent of the workers for whom they bargain are involved. The Electrical Workers' (IBEW) Union has the smallest ratio of construction members under accreditation, 3.8 per cent; but more than 14 per cent of its agreements are affected.

Over-all, the 38 accreditations apply to 13.5 per cent of the total 281 construction pattern-setting agreements held by all unions in the industry; and 20 per cent of the 95,183 workers covered by these contracts are affected.

RESEARCH BRANCH, ONTARIO MINISTRY OF LABOUR
23 September, 1974

Table 1

Distribution of certification applications disposed of by OLRB in Fiscal Year 1973-4 by construction and non-construction panels

A. *Construction applications*

Panel members	Number of applications	Percentage	Number of hearings held	Hearing time	
				Hours	Percentage
Franks, Ade, and Boyer	55	11.9	13	25.3	16.7
Furness, Ade, and Boyer	276	59.6	51	64.3*	42.4
Franks, C and NC members	1	0.2	—	—	—
Furness, C and NC members	36	7.8	38	45.7	30.1
Franks and NC members	1	0.2	—	—	—
Furness and NC members	29	6.3	8	13.8	9.1
NC chairman and NC members	2	0.4	2	2.5	1.7
NC chairman, C and NC members	2	0.4	—	—	—
Franks only	7**	1.5	—	—	—
Furness only	47**	10.2	—	—	—
NC chairman only	7**	1.5	—	—	—
TOTAL	463	100.0	112	151.6	100.0

* Minimum time; hearing time was not recorded in some cases.

** All of these cases were withdrawn before they were assigned to a panel, usually two to four days after filing, and, therefore, required only an administrative decision.

Table 1 (Cont'd)

Distribution of certification applications disposed of by OLRB in fiscal year 1973-4 by construction and non-construction panels

B. Non-construction applications

Panel members	Number of applications	Percentage	Number of hearings held	Hearing time	
				Hours	Percentage
Franks, Ade, and Boyer	18	2.1	24	43.5	7.2
Furness, Ade, and Boyer	15	1.8	16	9.3*	1.5
Franks, C and NC members	3	0.4	4	4.0	0.7
Furness, C and NC members	3	0.4	2	.4	0.1
Franks and NC members	24	2.9	25	26.6	4.4
Furness and NC members	22	2.6	24	15.2*	2.5
NC chairman and C members	86	10.3	76	90.3*	14.9
NC chairman and NC members	530	63.3	537	394.9*	65.1
NC chairman, C and NC members	53	6.4	33	22.0	3.6
NC chairman only	79**	9.5	—	—	—
TOTAL	833	100.0	741	606	100.0

* Minimum time; hearing time was not recorded in some cases.

** All of these cases were withdrawn before they were assigned to a panel, usually two to four days after filing, and, therefore, required only an administrative decision.

Table 2

Distribution of accreditation, jurisdictional disputes, and section 123 cases disposed of by OLRB in fiscal year 1973-4 by construction and non-construction panels

Panel members	Number of cases	Number of hearings held	Number of hours of hearing
<i>Accreditation cases</i>			
Franks, Ade, and Boyer	18	23	24.5
Franks, C and NC members	1	1	3.0
NC chairman, C and NC members	2	6	12.5
TOTAL	21	30	40.0
<i>Jurisdictional disputes cases</i>			
Furness, C and NC members	1	1	*
Franks and NC members	1	1	1.0
NC chairman and C members	1	—	—
TOTAL	3	2	1.0
<i>Section 123 cases</i>			
Furness and NC members	1	1	2.0
NC chairman and C members	2	2	0.3
NC chairman, C and NC members	1	3	11.5
NC chairman and NC members	3	3	6.5
NC chairman only	15**	—	—
TOTAL	22	9	20.3

* Minimum time; hearing time was not recorded in some cases.

** All of these cases were withdrawn before they were assigned to a panel, usually two to four days after filing, and, therefore, required only an administrative decision.

Table 3

Accreditation applications granted by OLRA since 15 February 1971 by employer group

Employer group	Number of accreditations granted	Number of employers affected	Number of employees affected
Canadian Automatic Sprinkler Assn	1	15	495
Hamilton Mechanical Contractors Assn	1	50	993
Hamilton and District Sheet Metal Contractors Inc	1	47	380
Kingston Mechanical Contractors Assn	1	33	146
Kitchener-Waterloo Construction Assn	2	110	932
London Electrical Contractors Assn	1	22	184
London Mechanical Contractors Assn	1	21	163
London Sheet Metal Contractors Assn	1	18	121
Niagara Mechanical Contractors Assn	1	27	202
Ontario Boilermaker Contractors' Assn	1	52	666
Ontario Erectors Assn	5	461	2735
Ontario Millwrighting Contractors Assn	1	94	698
Ontario Pipeline Contractors Assn	4	74	1918
Ottawa Mechanical Contractors Assn	4	186	1978
Thunder Bay Construction Assn	1	16	159
Thunder Bay Mechanical Contractors Assn	1	22	140
Toronto Construction Assn	4	582	2843
Toronto Heavy Construction Assn	1	15	84
Toronto Mechanical Contractors Assn	2	169	2251
Toronto Sheet Metal and Air Handling Group	2	103	1618
Waterloo-Wellington Sheet Metal Contractors Assn	1	11	151
Windsor Mechanical Contractors Assn	1	24	148
TOTAL	38	2152	19,005

Table 4

Accreditation applications granted by OLRB since 15 February 1971 by trade and geographical coverage

Trade	Number of accreditations granted	Number of employers affected	Number of employees affected	Geographical coverage	
				Area	Province-wide
Boilermakers	1	52	666	-	1
Carpenters	2	342	2307	2	-
Cement finishers	1	76	321	1	-
Electricians	2	38	343	2	-
Iron workers	5	461	2735	5	-
Labourers	3	91	1405	2	1
Millwrights	1	94	698	-	1
Operating engineers	2	205	1020	1	1
Plumbers	11	482	5579	10	-
Rodmen	1	34	225	1	-
Roofers	1	19	411	1	-
Sheet metal workers	6	228	2655	6	-
Sprinkler fitters	1	15	495	-	1
Teamsters	1	15	145	-	1
TOTAL	38	2152	19,005	31	7

Table 5

Accreditation applications granted by OLRB since 15 February 1971 as proportion of construction agreements held by unions affected

Union	Accreditations			Agreements		Accreditations granted as percentage of agreements held	Employees affected by accreditations as percentage of employees affected by agreements
	Number granted	Number employees affected	Number of employees affected	Number of employees affected	Number held		
Boilermakers	1	666	1	1	666	100.0	100.0
Carpenters	3	3005	38	38	14,628	7.9	20.5
Electrical workers (IBEW)	2	343	14	14	8930	14.3	3.8
Int'l. operating engineers	2	1020	33	33	4900	6.1	20.8
Labourers	3	1405	49	49	19,368	6.1	7.3
Plasterers	1	321	17	17	1965	5.9	16.3
Plumbers	12	6074	26	26	13,812	46.2	44.0
Sheet metal workers	7	3066	31	31	5755	22.6	53.3
Structural iron workers	6	2960	12	12	4205	50.0	70.4
Teamsters	1	145	11	11	1384	9.1	10.5
TOTAL	38	19,005	232	232	75,613	16.4	25.1

NOTE: Accreditations by union is not the same as accreditations by trade in Table 4. Some unions represent workers in more than one trade. Thus, carpenters and millwrights in Table 4 are represented by the Carpenters' Union; iron workers and rodmen by the Structural Iron Workers' Union; plumbers and sprinkler fitters by the Plumbers' Union; and roofers and sheet metal workers by the Sheet Metal Workers' Union.

APPENDICES 1-95

APPENDIX 1 (exhibit 1038)

Advertisements of Commission hearings

PLACE	NEWSPAPER	DATES OF ADVERTISEMENT
Brantford	The Expositor	May 8, 24, Aug. 27, Feb. 9, 1973
Cambridge	Daily Reporter	May 7, 24, Aug. 27, Feb. 8, 1973
Guelph	Daily Mercury	May 7, 23, Sept. 6, Feb. 9, 1973
Hamilton	The Spectator	May 7, 23, Aug. 27, Feb. 8, 1973
Kingston	Whig-Standard	May 7, 24, Aug. 27, 1973
Kitchener	Record	May 24, Aug. 27, Feb. 8, 1973
London	Free Press	May 7, 24, Aug. 27, 1973
Niagara Falls	Review	May 8, 24, Aug. 27, Feb. 11, 1973
Oakville	Daily Journal Record	May 8, 24, Aug. 27, 1973
Oshawa	Times	May 8, 25, Aug. 27, 1973
Ottawa	Citizen	May 7, 25, Aug. 27, Feb. 6, 1973
Ottawa	Journal	May 7, 25, Aug. 27, Feb. 5, 1973
Ottawa	Le Droit	May 26, June 6, Sept. 1, Feb. 11, 1973
Peterborough	Examiner	May 8, 24, Aug. 27, 1973
Sarnia	Observer	May 7, 24, Aug. 28, 1973
Sault Ste Marie	Sault Daily Star	May 7, 24, Aug. 27, 1973
St Catharines	Standard	May 7, 25, Aug. 27, Feb. 8, 1973
Sudbury	Star	May 8, 25, Aug. 27, 1973
Thunder Bay	The Chronicle-Journal	May 7, 25, Aug. 27, 1973
Thunder Bay	The Times-News	May 8, 26, 1973
Timmins	The Daily Press	May 8, 24, Aug. 27, 1973
Toronto	Corrier Canadese	Aug. 30, 1973
Toronto	Courier	May 24, Sept. 6, 1973
Toronto	Daily Commercial News	May 9, Aug. 27, 1973
Toronto	The Financial Post	May 12, 26, Sept. 1, 1973
Toronto	The Globe and Mail	May 7, 24, Aug. 27, 1973
Toronto	The Ontario Gazette	Sept. 1, 1973
Toronto	O Jornal Portugues	Sept. 14, 1973
Toronto	Star	May 7, 23, Aug. 28, 1973
Toronto	Sun	May 7, 24, Aug. 27, 1973
Toronto	Torontoer Zeitung	May 25, Sept. 7, 1973
Windsor	Star	May 7, 25, Aug. 27, 1973

APPENDIX 2 (exhibit 1037)
Letter and list of counsel



THE ROYAL COMMISSION
ON
CERTAIN SECTORS OF THE BUILDING INDUSTRY

COMMISSIONER: HIS HONOUR JUDGE HARRY WAISBERG
COUNSEL: A. E. SHEPHERD, Q. C.
ASSOCIATE COUNSEL: N. D. MCRAE, Q. C.
SECRETARY: J. W. LIDSTONE

SUITE 309, 145 QUEEN STREET WEST
TORONTO, ONTARIO
M5H 2N9

Dear Sir:

The Commissioner has fixed 5th March next as the date on which he will hear any additional evidence or oral submission on behalf of any person affected by the evidence heard to date by this Royal Commission. If more than one day is required then the hearings will continue from day to day until completed. He has directed that this letter be sent to all counsel appearing at the hearings.

If your client wishes to lead such evidence or to have an oral submission made, you should notify the Commission by 26th February next of the name and address of any witness intended to be called and a brief summary of the matters in respect of which he is intended to testify. This requirement is to enable Commission Counsel to ensure that the evidence is within the terms of reference, that any person likely to be affected thereby can be notified to be present and to arrange an appropriate timetable for witnesses. Unless you intend to call evidence or to be heard further, you need not reply to this letter.

Yours truly,

/cm

A. E. Shepherd,
Commission Counsel.

S. Adlam	T.C. Marshall
Martin I. Applebaum	P.T. Matlow
M. Armel	W.R. Maxwell
Robert P. Armstrong	A.M. Minsky
E.S. Beatty	John McDougall
J.B. Berkow	R. Roy McMurtry, Q.C.
Igor Bobrow	Ian R. McTavish
Garry K.C. Braund, Q.C.	S. Moscoe, Q.C.
B.D. Brown	J. Murphy
P.J. Brunner	S. Naftolin
Milton A. Cadsby, Q.C.	J.C. Osborne
J. Ronald Charlebois	I. Outerbridge, Q.C.
H.H. Elliott, Q.C.	Richard Parker
Ivan Fleischmann	John B. Piazza
Marvin Givertz	A.I. Posluns
S.I. Glober	Bruce M. Ralph
R.I. Goldin	Moishe Reiter
B. Hornsby	John M. Rosen
David Humphrey, Q.C.	Michael E. Royce
A. Kaplan	R.C. Rutherford, Q.C.
Raymond Koskie	Ian Scott, Q.C.
Alan J. Lenczner	M.L. Sidenberg
S.B. Linden	R.G. Slaght
Michael D. Lipton	S.H. Starkman
D.H. Lissaman, Q.C.	C.A.E. Thulean
J. Markson	T.C. Warne
Jonathan H. Marler	Lawrence J. West
Frank Marrocco	David A. Wetmore

APPENDIX 3

Bibliography

I availed myself of the following bibliography:

Report of the Royal Commission on Labour-Management Relations in the Construction Industry, H. Carl Goldenberg, OBE, QC, Commissioner. March 1962

Report of an Industrial Inquiry Commission concerning Matters Relating to the Disruption of Shipping on the Great Lakes, the St. Lawrence River

System and Connecting Waters, the Honourable T.G. Norris, Commissioner. July 1963

Construction Labour Relations, edited by H. Carl Goldenberg SM, OBE, QC, LLB, and John H.G. Crispo, commissioned by the Canadian Construction Association. 1968

Report of the Royal Commission Inquiry into Labour Disputes, the Honourable Ivan C. Rand, CC, Commissioner. August 1968

Canadian Industrial Relations, the Report of Task Force on Labour Relations, H.D. Woods, chairman. December 1968

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Report of the Commission of Inquiry into Industrial Relations in the Nova Scotia Construction Industry. H.D. Woods, Commissioner. September 1970

Justice Delayed – The Arbitration Process in Ontario for the Labour Council of Metropolitan Toronto, Howard Goldblatt. 1974

Study on Trusteeship for the Research Branch of the Ministry of Labour, David Katz. October 1973

APPENDIX 4 (exhibit 600)

Charge of price-fixing

IN THE SUPREME COURT OF ONTARIO

REGINA V NORMAN LATHING LIMITED,

A. V. HALLAM LATHING & PLASTERING LIMITED,

GAMBIN BROTHERS LIMITED,

C. STRAUSS LIMITED,

O. M. BAIRD & CO LIMITED,

HILL & SON PLASTERING LIMITED,

DONALDSON-BARRON LIMITED.

REGINA V CESARONI BROTHERS LIMITED,
W. J. CROWE LIMITED,
DIXON CONSTRUCTION ENTERPRISES LIMITED,

REGINA V JOHN NELSON AND SON LIMITED.

Before the Honourable Mr. Justice S.H.S. HUGHES, at Toronto,
Ontario, on the 20th day of November, 1969.

PRESENT:

W. Z. ESTEY, Q.C.,	Counsel for Crown,
B. J. MCKINNON, Q.C.,	
W. R. HERRIGE,	Counsel for Norman Lathing, A. V. Hallam Lathing, Gambin Brothers, C. Strauss, Donaldson-Barron.
R. J. CARTER,	Counsel for Nelson and Son,
MAX BROWN,	Counsel for Cesaroni Bros.
JOHN BROWN,	Counsel for O.M. Baird & Co,
JOHN DASHWOOD,	Counsel for Hill & Son.

CHARGES: Conspiracy under Section 32 (1) (c) and
Section 32 (1) (d) of the
Combines Investigation Act.

Conspiracy under Section 32 (1) (c) and
Section 32 (1) (d) of the
Combines Investigation Act.

Conspiracy under Section 32 (1) (c) and
Section 32 (1) (d) of the
Combines Investigation Act.

HIS LORDSHIP: The accused in this prosecution are companies engaged in the lathing and plastering business and have been divided, for the purpose of preferring indictments, into three groups. The first group consists of Norman Lathing Limited, A. V. Hallam Lathing & Plastering Limited, Gambin Brothers Limited, C. Strauss Limited, O. M. Baird & Co. Limited, Hill & Son Plastering Limited and Donaldson-Barron Limited.

The second group, which is connected, consists of three companies. When I say connected, it has been agreed that the three companies have common shareholders. Cesaroni Brothers Limited, W. J. Crowe Limited and Dixon Construction Enterprises Limited.

The third indictment is preferred against John Nelson and Son Limited.

There are two counts in each indictment. Both counts allege breach of Section 32 of the Combines Investigation Act. The first count refers specifically to a breach of paragraph (c) of sub-section (1); and the second of paragraph (d) of sub-section (1)

The accused have all, today, pleaded guilty of the first count for having been guilty of a conspiracy to prevent or lessen unduly competition under paragraph (c); and have pleaded not guilty to the count which charges the conspiracy to restrain or injure trade or commerce in relation to any article.

The Crown, through Mr. Estey, Q.C., has given me an outline of the device which was employed to pervert, in the interest of the accused, the bid depository system which is in effect in the building trades in Toronto, and I have heard submissions, by counsel for the accused, as to sentence. Mr. Estey suggested, in addition to the Order of Prohibition which has been submitted to me in draft form, and upon which counsel for the accused have really no strictures, a scale of fines. The maximum is a fine of \$10,000.00 and the minimum a fine of \$5,000.00, with, perhaps, an additional minimum in the case of two companies; W. J. Crowe Limited and Dixon Construction Enterprises Limited, which are part and parcel of the Cesaroni Brothers Limited, in which it is suggested that some \$5,000.00 may be split between them.

\$10,000.00, of course, was the maximum fine permitted to be imposed before the amendment to the Combines Investigation Act. Under the circumstances and in an area where the spirit of the law is well known and its letter clearly written, I do not think that such a figure is excessive.

It has been suggested to me that the conspiracy was not as successful as its participants might have wished and that it did not, in fact, affect all forms of construction in which lathing and plastering is involved, being confined to a certain type of institutional building. Although the damage inflicted on the public is a highly relevant consideration, it does not seem, in this case,

that the offence is substantially lessened because it was not as comprehensive as it might have been, or because the conspiracy was not as comprehensive as it might have been.

In consequence of views I have already expressed, the Court will impose sentence as follows:

Norman Lathing Limited will be fined \$10,000.00

A. V. Hallam Lathing & Plastering Limited \$10,000.00

Gambin Brothers Limited \$10,000.00

C. Strauss Limited \$5,000.00

O. M. Baird & Co Limited \$5,000.00

Hill & Son Plastering Limited \$5,000.00

Donaldson-Barron Limited \$10,000.00

Cesaroni Brothers Limited, \$10,000.00

W. J. Crowe Limited \$2500.00

Dixon Construction Enterprises Limited \$2500.00

and John Nelson and Son Limited \$5,000.00.

There will be, also, three Orders of Prohibition issued, directed to the companies as named in the three indictments, respectively, in the form submitted and upon which counsel have commented.

On the Orders, I asume that a simple endorsement on the back of each will be sufficient?

MR. ESTEY: Yes, my lord. Perhaps I should have suggested to your lordship, on the endorsement the second count should be dismissed. Otherwise it is left hanging.

HIS LORDSHIP: Yes. I won't take your time then, Mr. Estey, to read what has been endorsed on the back of the indictments or the back of the Orders. I can assure you I have checked it in terms of what I have already said.

MR. ESTEY: Thank you, my lord.

HIS LORDSHIP: Thank you, gentlemen.

Certified correct,

_____.C.S.R.

Official Court Reporter, S.C.O.

APPENDIX 6 (exhibit 496)

Agreement between Toronto and District Marble and Local 31

Con. Entt

MEMORANDUM OF AGREEMENT MADE THIS 15TH DAY OF APRIL
YEAR OF OUR LORD, NINETEEN HUNDRED AND SIXTY SIX A.D.

BETWEEN

THE TORONTO AND DISTRICT MARBLE, TILE AND TERRAZZO
CONTRACTORS ASSOCIATION OF THE CITY OF TORONTO;

hereinafter referred to as the 'Contractor'

-and-

LOCAL NO. 31 MARBLE, TILE, SETTERS AND TERRAZZO
WORKERS AFFILIATED WITH THE BRICKLAYERS, MASONS AND
PLASTERERS INTERNATIONAL UNION OF AMERICA.

hereinafter referred to as the 'Union'

WHEREAS, the general purpose of this Agreement is to establish
mutually satisfactory arrangements between the Companies and its
employees and to provide machinery for the prompt and equitable
disposition of grievances, and to establish and maintain satisfactory
working conditions, hours of work and wages for all the employees
who are subject to the provisions of this Agreement;

THEREFORE it is expressly agreed and declared by and between
the Parties as follows:

Article 1. TERMS OF AGREEMENT

- (a) This agreement when signed shall become effective from
May 1st, 1966 and shall remain in force until the
30th day of April, 1975.
- (b) All the signatories to this Agreement will be advised
before the adding of any new signatories to this
Agreement.
- (c) The Contractor agrees not to employ anyone in the trade
of Marble, Tile or Terrazzo work within the area as
outlined in Article 11 hereof who is not a member of
this Union.
- (d) No member of the Union shall be permitted to work at
Marble, Tile or Terrazzo for any person, corporation or
partnership who is not a Party to this Agreement.
- (e) The Union shall not sign this agreement with anyone other
than a party whose business is recognized as Marble, Tile
or Terrazzo work as laid out in Article 1 hereof.
- (f) The Contractor agrees that it will not sell any material,
supply any tool, or rent any machinery to any Contractor
who does not have an agreement with the Union.
- (g) The Contractor shall not employ any Marble, Tile, or
Terrazzo workers on a permanent basis, or
award any piece contract of work for a long term or
seasonal or casual basis of work to be done in a given time,
and without limiting the generality of the foregoing,
there shall be no limitation as to the amount of work any
man may be required to perform.

- 2 -

- (h) It is agreed that the joint trade committee shall be three representatives from each party, and this committee shall have the power to set up agreements, pending agreements, also to ~~set up~~ negotiate ~~and to hear~~ and to hear ~~disputes~~ of agreement and deal with same. The committee to meet at least once every three months, and to be called any time in case of emergency. Proper rules and procedures are to be established at the first regular meeting. "Minutes" to be kept of all meetings.
- (i) The Contractor agrees to phone the Union office for all Mechanics required. The Employer shall have the right to determine the competency and qualifications of men referred by the Union and the right to hire or not to hire accordingly, and there shall be no loaning of men from one shop to another without prior notice to the Union.

Article 2. MARBLE, TILE AND TERRAZZO JURISDICTION

Marble Mosaic, Venetian Enamel and Terrazzo, cutting and assembling of mosaic, the casting of all Terrazzo on jobs:

All budding above concrete floors, or walls for the preparation, cutting, laying or setting of metal, composition of wooden strips and grounds and the laying and cutting of metal strips, latins, or other reinforcements, where used in Mosaic and Terrazzo work, shall be the work of the mosaic and Terrazzo workers.

All Cement, Terrazzo, Magnesite Terrazzo, De-O-Tux, Rustic or rough washed for exterior or interior of buildings and any other kind of Plastic mixture composed of chips of marble, granite, blue stone, enamel, mother of pearl, and all other kinds of chips when mixed with cement, rubber, magnesium chloride, or other binding materials when used on floors, ceilings, stairs, saddles or any other part of the interior or exterior of buildings, and also other work not considered a part of the building, such as fountains, swimming pools, etc., also all other substitutes that may be applied under the same method as Mosaic or Terrazzo.

Cutting and assembling of art ceramic and glass mosaic comes under the jurisdiction of the Mosaic Worker and the setting of the same shall be done by the Tile layers.

The laying, cutting and setting of all tile where used for floors, walls, ceilings, walks, promenades, roofs, stairs, treads, stair risers, facing hearths, fireplaces and decorative inserts, together with any marble plinths, thresholds or window stools used in connection with any tile work; also prepare and set all concrete, cement, brickwork, or other foundation or materials that may be required to properly set and complete such work, the setting or bedding of all tiling, stone, marble composition, glass mosaic or other materials forming the facing, hearth or fireplace of a mantel, or the mantel complete, together with the setting of all cement, brickwork, or other materials required in connection with the above work; also the slapping and fabrication of tile mantels, counters and tile panels of every description and the erection and installation of same. The building, shaping, forming, construction or repairing of all fireplaces, whether in connection with a mantel, hearth facing or not and the setting and preparing of all materials such as cement, plaster, mortar, brickwork, ironwork, or other materials necessary for the proper and safe construction and completion of such work, except that a mantel made exclusively of brick, marble or stone, shall be conceded to the bricklayers, marble setters, or stone masons work respectively. Where tile is set with adhesive and the walls, floors and ceilings are finished with cement mortar, both floating and tile setting shall be done by tile setters.

APPENDIX 7 (exhibit 531)

Members of the Metro Toronto Marble, Tile and Terrazzo Association

STANDARD, MARBLE AND TERRAZZO CO. LTD.	Per: _____
FAHINE TILE & MARBLE CO. LIMITED	Per: _____
PERKINS TERRAZZO LIMITED	Per: _____
TIME TERRAZZO & TILE CO.	Per: _____
RIDGE TERRAZZO, TILE & MOSAIC LIMITED	Per: _____
MIDWAY TERRAZZO & TILE CO.	Per: _____
FISCH TERRAZZO & TILE COMPANY	Per: _____
GEN CAMPBELL TERRAZZO & TILE CO.	Per: _____
DURRY TERRAZZO & TILE CO.	Per: _____
GENERAL TERRAZZO & TILE CO. LTD.	Per: _____

APPENDIX 8 (exhibit 312)
Offences in Toronto by year

	1968	1969	1970	1971	1972
Threatening	2	1	—	—	—
Explosion	—	1	1	—	3
Wilful damage	63	41	37	40	53
Assault	2	4	1	3	5
Arson	6	1	3	7	6
Break and enter	42	10	16	7	18
Sudden death (accidental)	4	2	3	—	1
Theft	122	38	53	51	84
Bomb threat	—	—	—	1	—

APPENDIX 9 *see* Volume 1

APPENDIX 10 *see* Volume 1

APPENDIX 11 *see* Volume 1

APPENDIX 12 *see* Volume 1

APPENDIX 13 (exhibit 1085)
Criminal record of Ian Rosenberg



METROPOLITAN TORONTO POLICE
CRIMINAL RECORD
OF

DOB Oct 24/40

ROSENBERG, Ian

MTP 364/56

DATE	PLACE	@ROSENBERG, Ian Lester
1957, May 30	Toronto, Ont.	Assault Bodily Harm - Suspended Sentence, Probation 1 year and Bound Over in the sum of \$1000.00 by Magistrate Gullen.
1959, July 30	Toronto, Ont.	Receiving - Suspended Sentence, Probation 12 months by Magistrate Gianelli.
1959, Aug 31	Toronto, Ont.	1. False Pretences - (3 charges) 2. Attempt False Pretences - 3. Fraud - Suspended Sentence, Probation 1 year by Magistrate Rogers.
1962, Feb 5	Toronto, Ont.	1. Shopbreaking and Theft - 2. Possession of Stolen Auto - 3. False Pretences - 4. Conspiracy - 2 years less 1 day definite and 2 years indefinite on each charge, concurrent sentences by Magistrate Rogers.
1962, Feb 26	Toronto, Ont.	Fraud - (5 charges) 3 years on each charge, concurrent sentences and concurrent with term now serving by Magistrate Hayes.
1964, Mar 26		Released on or about this date on expiration of sentence.
1965, Mar 24	Toronto, Ont.	Possession of Stolen Auto - 3 years by Judge Forsyth.
1965, Apr 6	Toronto, Ont.	Fraud - 3 years and 6 months concurrent with sentence now serving by Magistrate Gianelli.
1965, Apr 12	Oshawa, Ont.	Fraud - 12 months consecutive to sentence dated April 6, 1965.
1966, Oct 17		Released on Parole this date - sentence due to expire August 13, 1969.
1967, June 12		Parole cancelled by National Parole Board.
1969, Feb 7		Released on Parole - Remission date August 13, 1969.
1969, Mar 5		Parole cancelled.
1969, Apr 10	Toronto, Ont.	Fraud - 3 years plus the unexpired portion of sentence dated April 12, 1965. i.e. 392 days by Judge Wilch.



Page 2.

METROPOLITAN TORONTO POLICE
CRIMINAL RECORD
OF

ROSENBURG, Ian

MTP 364 /56

DATE	PLACE	
1971, June 22	Toronto, Ont.	Released on Parole - Remission date May of 1973.
1972, Mar 7		Parole Suspended by the National Parole Board.
1972, June 5		1. Conspiracy - 2. False Pretences - 20 months on 1st charge consecutive to term serving, 1 month on 2nd charge concurrent by Judge Foster.
1972, Aug 4		Parole Cancelled.

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APPENDIX 14 *see* Volume I

APPENDIX 15 *see* Volume I

APPENDIX 16 *see* Volume I

APPENDIX 17 (exhibit 1102) Laboratory report on weapons



THE CENTRE OF FORENSIC SCIENCES

PHONE
(416) 965-2561

MINISTRY OF THE SOLICITOR GENERAL

8 JARVIS STREET
TORONTO 2
M5E 1M8

July 26, 1974

Lab. File No. 3424-74

Your File No.

LABORATORY REPORT

For: Royal Commission on Certain Sectors of the Building Industry, Suite 309, 145 Queen St. W., Toronto, Ont. M5H 2A9

Reference: RESTRICTED WEAPONS

Copies to: S/Sgt. G. Thompson
Sgt. L. Ormerod

Submitted by R. Monument

R. Monument - Firearm Examiner

Continuity: The following items were received from S/Sgt. G. Thompson on July 18 1974

<u>Exh. No.</u>	<u>Description</u>	<u>Findings</u>
"Seized from 30 "males"	F1 One Sten submachine gun Model: MKII Long Branch 1942 Serial No. CL 6192 Calibre: 9mm	This gun was test fired as a semi-and full-automatic weapon.
"Seized from 26 "males" "osburn"	F2 One Sten submachine gun Model: MKII Long Branch 1942 Serial No. CL 5674 Calibre: 9mm	This gun was test fired as a semi-and full-automatic weapon.

Seized F3
from 49
Hepbourne"

One cardboard box
containing ten badly
damaged Sten gun
receivers and three
pieces of Sten gun
receivers.

These damaged receivers could not
be readily restored to their
original condition.

"Seized F4
from 49
Hepbourne"

One cardboard box
containing :

- 1 - Thompson gun magazine
pouch containing five
20 round Thompson gun
magazines.
- 1 - 30 round Thompson gun
magazine.
- 1 - Thompson gun frame
group Ser. No. S341815
- 4 - Sten gun barrels.
- 4 - Sten gun magazine housings.
- 1 - Paper bag containing :
 - 1 Sten gun sling
 - 2 M1 carbine bolts
 - 2 M2 carbine operating slides
 - 1 M1 carbine disconnecter assembly.
 - 1 M1 carbine trigger housing.
 - 1 M1 carbine operating spring and
spring guide.
 - 1 M1 carbine recoil plate.
- 1 - Metal ammunition box containing :
 - 36 unfired .22 calibre cartridges.
 - 9 stripper clips each holding ten unfired
30 carbine cartridges.
 - 4 unfired 7.62 mm calibre cartridges.
 - 2 unfired 38 Spl. cartridges.
 - 1 unfired 16 gauge shotgun shell.
 - 1 metal collar for the 32 round drum
magazine used in the World War I
German MP18 Submachine gun.
 - 1 unknown magazine loader.
 - 1 Sten gun front sight.
 - 1 Change lever for the Canadian Army issue
CIAI semi-automatic rifle.
 - 1 small cardboard box.
 - 1 small metal jewel case.
 - 3 Watchman tear gas cartridges,
gun cleaning equipment brushes,
patches etc.

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Seized F5
from
1003
Dufferin"

One cardboard box containing :

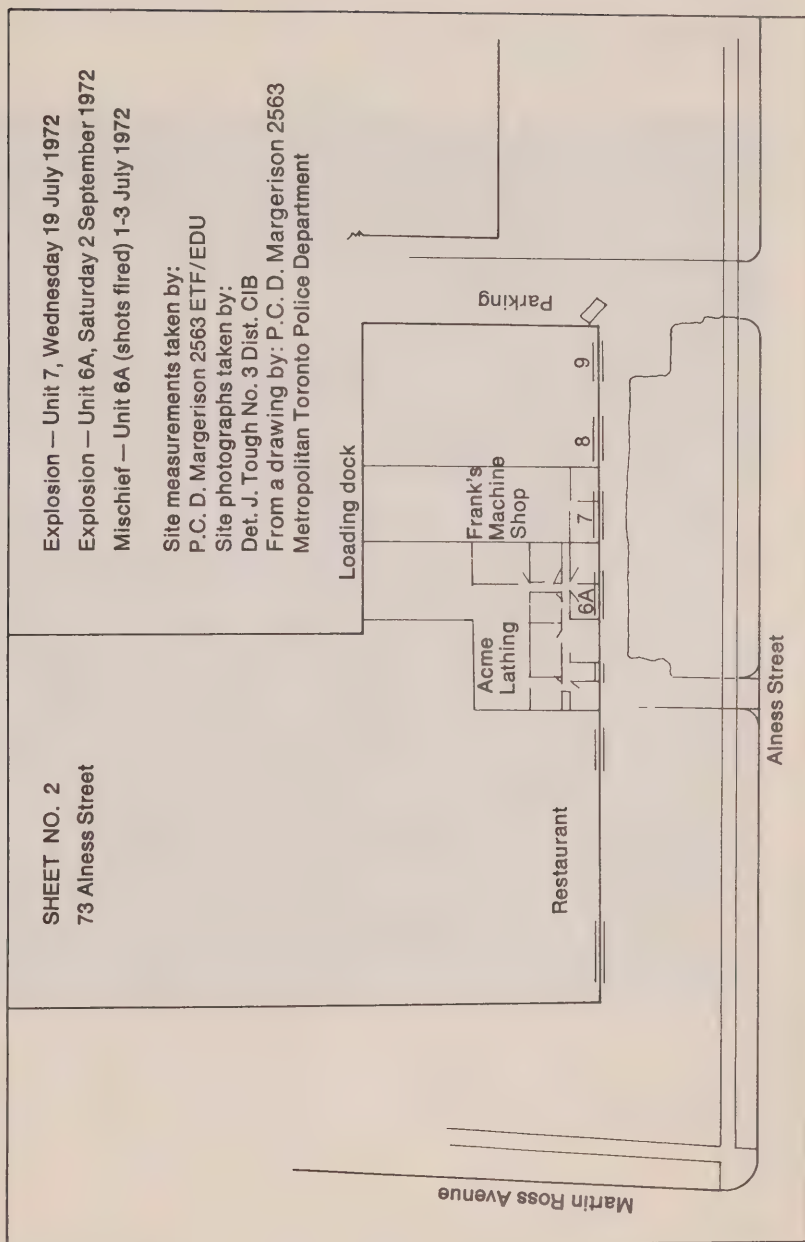
- 5 - Sten gun barrels
- 8 - 32 round Sten gun magazines
- 6 - Sten gun butt stocks
- 5 - Sten gun magazine housings
- 5 - Sten gun barrel jackets.
- 1 - Sten gun retracting handle.
- 3 - Sten gun magazine loaders.
- 4 - Sten gun spring housings.
- 4 - Sten gun spring caps.
- 4 - Sten gun operating springs.
- 1 - Sten gun trigger mechanism cover.

"13:

Three of the seven bullets resubmitted in connection with our File No. 2911-72 Mischief Involving a Firearm - Acme Machine Co. Ltd., were identified as having been fired from the item F5 Sten barrel No. 3028. The four remaining bullets could not be identified as having been fired from any of the remaining Sten barrels submitted in connection with this case."

Due to the lack of various component parts, a complete Sten submachine gun could not be assembled from the items "F3", "F4" and "F5".

APPENDIX 18 (exhibit 335)
Acme floor plan (sheet no. 2)



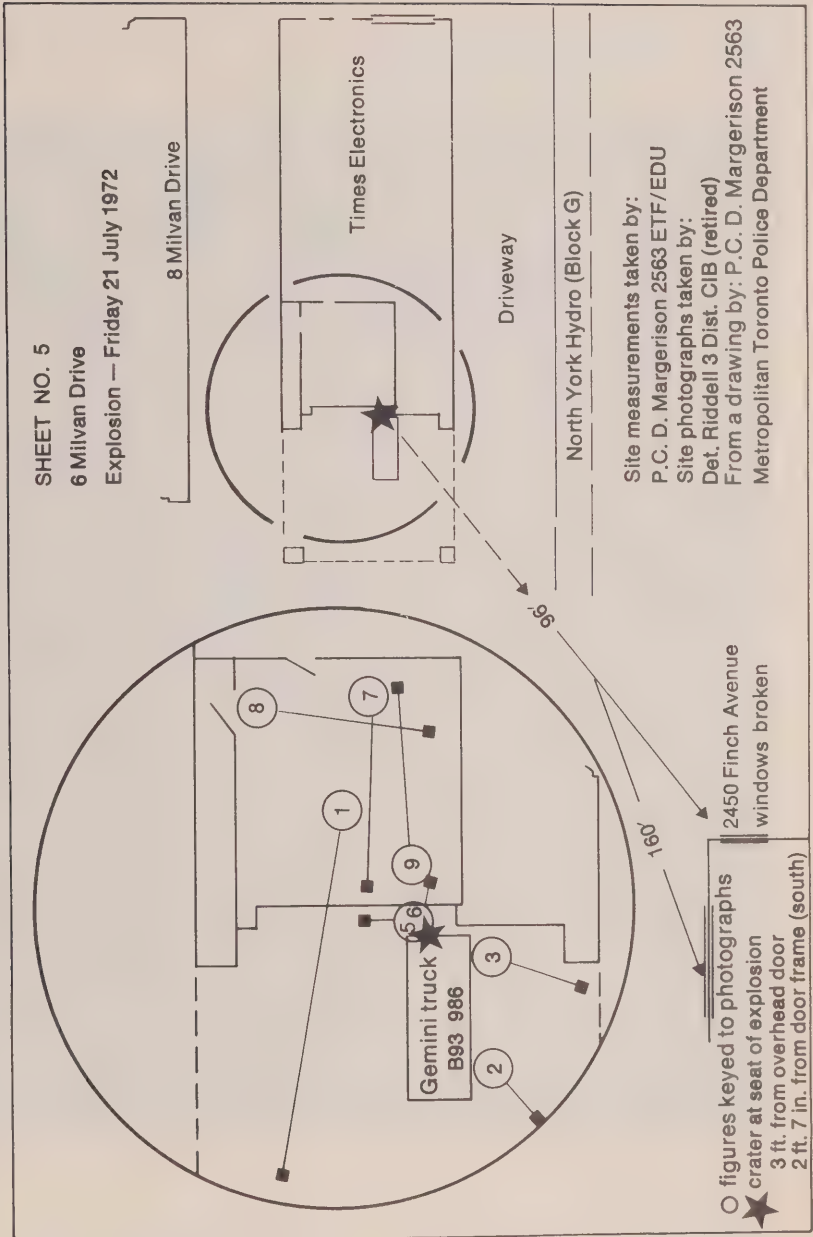
APPENDIX 19 (exhibit 336)

Unit 7, 73 Alness Street



APPENDIX 20 *see* Volume I

APPENDIX 21 (exhibit 354)
Plan of 6 Milvan Drive



APPENDIX 22 (exhibit 343)

Unit 6A, 73 Alness Street



APPENDIX 23 *see* Volume I

APPENDIX 24 (exhibit 368)

Acme premises, Unit 7, and position of crouched figure



APPENDIX 25 *see* Volume I

APPENDIX 26 (exhibit 366)

Henderson's recommendations for control of sale and disposal of unused dynamite

1 (a) That every stick of dynamite carry a separate serial number for identification purposes. (b) The serial numbers shall be recorded by the manufacturers when the dynamite is shipped to any private or commercial magazine. (c) The recorded numbers and customer shall be retained as records by the manufacturer.

2 *Commercial magazines, sale.* (a) A Commercial magazine shall sell explosives only to a person who has produced documentary evidence to satisfy the vendor as to the purchaser's name and place of abode. (b) Shall record the name and address and means of identification (i.e. driver's licence – Social Ins. number, etc.) on the bill of sale along with the serial numbers of each stick of dynamite purchased. (c) Require the purchaser to sign the bill of sale as having received the listed explosives. (d) Give a duplicate copy of the bill of sale to the purchaser. (e) File original bill of sale in a holding file.

3 *Purchaser.* (a) A person wishing to purchase dynamite must produce documentary evidence which will satisfy the vendor as to the name and place of abode of the purchaser. (b) Must sign the bill of sale as having received the explosives. (c) Return the duplicate copy of the bill of sale to magazine where it was obtained within 30 days, stating that 1.) All explosives were used 11.) Part of explosives were used and the remainder returned to a commercial magazine for disposal or 111.) Return bill of sale with remainder of unused explosives to the original magazine. 1111.) Sign the form stating information contained is true. (Where the duplicate copy is mailed to the originating magazine, it shall be by registered mail.)

4 *Returning unused dynamite.* (a) Any Commercial magazine shall accept unused dynamite provided that the person returning it has a bill of sale listing the serial numbers, the date and place of purchase and that it was purchased within 30 days. (b) Sign the bill of sale as having received the explosives. (c) Immediately notify the local explosives authority that he has explosives for disposal. (d) When he delivers the explosives to the authority, obtain a receipt listing serial numbers of explosives, name, number and unit of disposal personnel. (e) File receipt for record purposes. (f) Comply with a request for confirmation of destruction from any other commercial magazine and supply name, number and unit of disposal authority and serial numbers of explosives. (g) A Magazine will not be required to accept explosives where there is no bill of sale or where

possession by returnee is in excess of 30 days, the magazine shall notify authorities immediately.

5 *Explosives disposal personnel.* (a) When an explosives authority receives information that a magazine has explosives returned, he shall make immediate arrangements for pick up and disposal of the explosives and shall issue a receipt to the magazine stating serial numbers, name, number and unit. (b) When explosives authority receives information on outdated or where there is no bill of sale, he shall seize explosives and commence investigation as to history of explosives and prepare for prosecution of offenders.

6 *Returned bill of sale.* (a) When the originating magazine receives a returned duplicate copy of bill of sale, he shall ensure it has been signed by the purchaser stating the disposition of the explosives. (b) When the bill of sale is signed by the purchaser and by a representative of another Commercial magazine as having received unused explosives, the originating magazine shall contact the magazine which received the explosives and request confirmation that explosives were disposed of and note on the bill of sale – name, number and unit of disposal authority. If all is in order, file with original bill of sale and retain for a period of 7 years. (c) Where the bill of sale is not returned within 30 days or where the bill of sale is not signed or where it is purported to be signed by another commercial magazine and cannot be confirmed, the originating magazine shall notify the local explosives authority (who shall commence an investigation of the purchaser and location of the explosives.)

7 All Commercial Magazines shall display prominently, a large sign, stating the responsibility of the purchaser as to storage and conveyance of explosives in relation to the Explosives Act and Regulations and Penalties.

8 *Authority to examine magazine records.* Every manufacturer and every magazine, private or commercial, shall be required to produce all records and files for examination upon request by any authorized police officer.

APPENDIX 27 *see* Volume I

APPENDIX 27A *see* Volume I

APPENDIX 28 (exhibit 1088)
Criminal record of Ross MorellMETROPOLITAN TORONTO POLICE
CRIMINAL RECORD
OF

July 9, 1940

MORELL, Ross Daniel

MTP# 1485/58

DATE	PLACE	
1958 May 27	Toronto, Ont.	Theft of auto:- Suspended sentence probation 1 year by Judge Bigelow.
1957 Jun 1	USINS Buffalo N.Y., USA	Deportation:- Voluntary Departure granted June 1, 1957.
1971 Mar 11	Oakville, Ont.	Theft over \$50.00 reduced to Theft under \$50.00:- \$100.00 fine or 20 days.
1972 Aug 3	Toronto, Ont.	Fraud (2 charges):- Suspended sentence probation 2 years by Judge Gardhouse.

APPENDIX 29 *see* Volume IAPPENDIX 30 (exhibit 1086)
Criminal record of Thomas Kiroff

METROPOLITAN TORONTO POLICE

CRIMINAL RECORD

OF

June 15, 1941

KIROFF, Thomas

MTP# 2965/57

DATE	PLACE	
1957 Nov 1	Toronto, Ont.	Theft:- Suspended sentence probation 1 year by Judge Wolfe.
1973 Mar 13	Toronto, Ont.	Wounding guilty to Assault Bodily Harm:- Fined \$200.00 or 90 days by Judge McRae.
1973 Nov 5	Toronto, Ont. County Court APPEALED	1. Trafficking in a controlled drug:- 2. Illegal possession of narcotics:- 4 years less 23 days on 1st charge and 3 months concurrent with #1 on 2nd charge by Judge McRae.
1974 Apr 26	Supreme Court of Ontario	Application for leave to appeal and appeal against convictions and sentences dated November 4, 1973 is dismissed.

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ADDRESS ALL CORRESPONDENCE TO THE CHIEF OF POLICE

Metropolitan Toronto Police



Harold Adamson, Chief of Police



590 Jarvis Street
Toronto, Ontario
Canada. M4Y 2J5
(416) 967-2222.

PLEASE REPLY ATTENTION OF

FILE NO.

RECORDED FOR _____ DATE June 7, 1974

RECORD OF ONE KIROFF, Thomas
no address

DATE	AGE	OFFENCE	DISPOSITION	JUDGE
------	-----	---------	-------------	-------

1941

24 November 1970

Found In Betting House \$15 or 5 days

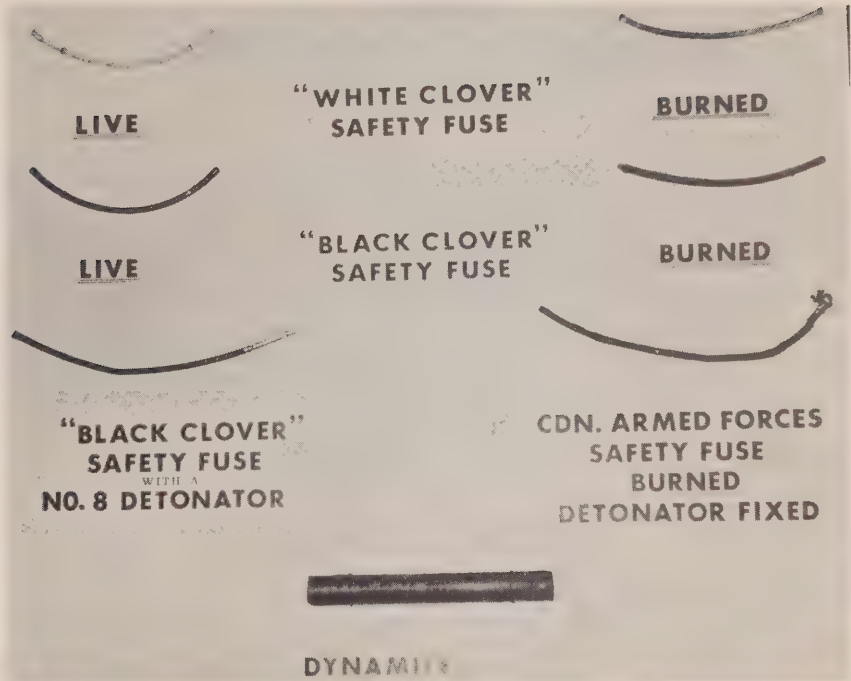
Graham

/dh

Recorded by _____
for A. C. Dyce, Inspector
Director, Records and Inquiry Bureau

APPENDIX 31 *see* Volume I

APPENDIX 32 (exhibit 363)
Fuses identified by Morell



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APPENDIX 33 (exhibit 1059)

Criminal record of Randolph Wheatley



METROPOLITAN TORONTO POLICE CRIMINAL RECORD OF

WHEATLEY Randolph Wellington

MTP# 3055/58

DATE	PLACE	@ Bernard George
1957, Aug 27	Wasaga Beach, Ont.	Theft of Auto - 4 months definite and 3 months indefinite.
1957, Aug 30	Parry Sound, Ont.	Theft of Auto (2 charges) - 3 months definite and 6 months indefinite on each charge concurrent sentences and concurrent with sentence dated Aug 27/57
1957, Dec 9		Released on Parole this date or as soon after as possible. Sentence due to expire April 1/58
1958, Nov 12	Toronto, Ontario	Theft - Suspended Sentence, Probation 1 year by Magistrate Graham.
1960, Dec 13	Toronto, Ontario	1- Shopbreaking with Intent - 9 months. 2- Theft - Fined \$25.00 or 5 days concurrent by Magistrate Thoburn.
1961, Feb 1		Transferred to the Ontario Reformatory - Guelph.
1961, Oct 25	Toronto, Ontario	Assault Bodily Harm - 6 months by Magistrate Graham.
1962, Dec 31	Toronto, Ontario	Assault Bodily Harm - Fined \$100.00 or 2 months by Magistrate Rogers.
1963, Apr 1	Buffalo, NY USA	Petty Larceny - \$500.00 Fined, 1 year Suspended Sentence.
1963, July 5	Toronto, Ontario	Assault Bodily Harm - 12 months by Magistrate Graham.
1963, Sept 24	Toronto, Ontario	1- Possession of Burglar's Tools - 2- Break, Enter and Theft - 2 years on 1st charge and 1 year concurrent on 2nd charge but consecutive with term now serving by Judge Forsyth.
1965, Aug 20		Released on or about this date from Collins Bay Pen.
1967, July 25	Winnipeg, Man.	Illegal Possession of Narcotics (Marijuana) - 2 weeks.



METROPOLITAN TORONTO POLICE CRIMINAL RECORD OF

WHEATLEY Randolph Wellington

MTP# 3055/58

DATE	PLACE	Page # 2 Cont'd . . .
1967, Nov10	Toronto, Ontario	Illegal Possession of Narcotics - 1 year definite and 1 month indefinite by Judge Deyman.
1970, Apr 29	Toronto, Ontario County Court	Illegal Possession of Narcotics - 3 months + Probation 2 years by Judge Kelly.
1971, May 27	Toronto, Ontario County Court	Illegal Possession of Narcotics - 1 month + Probation 3 years by Judge Honsberger.

APPENDIX 34 *see* Volume 1

APPENDIX 35 (exhibit 1035)

Morell's paper with lawyer's name

HOME 487 7332
JOHN ROSEN
OFFICE
161 2600

DEC 21 1973

APPENDIX 36 (exhibit 945)
Zanini's hospital record re shooting

HUMBER MEMORIAL HOSPITAL

TRANSCRIBED HISTORY

CHART No. 9081

NAME ZANINI, Mr. Bruno ROOM 75 DOCTOR W. Moffat

Chief Complaint; Past History; Family History; History of Present Illness;
Functional Inquiry; Physical Examination; Provisional Diagnosis.

Date of Admission

HISTORY:
Emergency.

This man was shot and I was asked to see him in

PAST HISTORY:

Non-contributory in this case.

PHYSICAL EXAMINATION:

He apparently was shot at fairly close range. On examination, his general condition is excellent. Examination of head and neck reveals no abnormalities. Chest; clear to percussion and auscultation. The heart sounds normal. Abdomen; soft and non-tender. Examination of the left leg; there is an obvious wound of entry about 3-4 inches below the inguinal ligament and the bullet is palpable more distally, posterior in the thigh. The bullet probably entered at about a 45 degree angle. There is no evidence of injury to the artery and the nerves of the leg are intact. Peripheral pulses are excellent. There is no evidence of a pulsating hematoma.

Under local anesthesia, in Emerg. the wound of entry was excised and the bullet was removed from the subcutaneous area posteriorly, under local anesthesia.

This man was admitted to hospital for a short period of observation, to both control the pain and to be sure that a pulsating hematoma and/or fistula does not develop.

August 26, 1972, dictated
August 28, 1972, typed
WM/sm


W. Moffat, M.D.

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APPENDIX 37 (exhibit 948) Zanini's laboratory record re shooting



THE CENTRE OF FORENSIC SCIENCES

PHONE
(416) 965-2561

MINISTRY OF THE SOLICITOR GENERAL
September 29, 1972

8 JARVIS STREET
TORONTO 2

Lab. File No. 3870-72 EJA

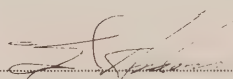
Your File No.

LABORATORY REPORT

For: Crown Attorney Concerned

Reference: Wounding of Bruno ZANINI

Copies to: Det. J. Zemsta, M.T.P.D. #12 Div., 2696 Eglinton Ave.W., Tor.337

Submitted by 
E. J. Anderson, Firearms Examiner

Continuity: Items "A", "B" and "E" were received on August 25, 1972 from Det. Zemsta. Items "B" and "C" were received from Det. Zemsta on September 12, 1972.

<u>Exh. No.</u>	<u>Description</u>	<u>Findings</u>
"Zanini"	A. One glass vial containing one fired .22 calibre Long Rifle bullet.	This item was fired from a firearm rifled six grooves right hand twist (6/R). It is of some identification value in relation to a specific firearm and any firearm in this calibre and rifled to these specifications which becomes suspect should be submitted for examination.
"Casing"	B. One envelope containing one fired .22 calibre Long or Long Rifle cartridge case.	This item was compared with items "C" and "D".

- "Lower garage" C. One envelope containing one fired .22 calibre Long or Long Rifle cartridge case.
- "Satan's Choice" D. One envelope containing one fired .22 calibre Long or Long Rifle cartridge case.
- "Pants" E. One green plastic bag containing one pair of trousers.

This item was very probably fired in the same firearm as item "B".

This item was eliminated as having been fired in the same firearm as items "B" and "C".

The examination of the front of this garment revealed a small hole in the upper left thigh area. Staining which appears to be dry blood was found in the area surrounding it.

No close range firearms discharge residues were detected in the area surrounding this hole.

APPENDIX 38 (exhibit 914)

Zappia's card

INTERNATIONAL BROTHERHOOD OF PAINTERS AND ALLIED TRADES

Armando Colafranceschi

BUSINESS REPRESENTATIVE
DISTRICT COUNCIL 46

863-0343
205 Church Street
Toronto 205



Local 1891
Residential Painters
and Drywall Tapers

Jan. 23/72.
at 1 P.M.
Sheddy Lane

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APPENDIX 39 (exhibit 1052)

Letter re Daly tape



Ontario	Ministry of the	Telephone:	125 Lake Shore Blvd. E.
Provincial	Solicitor	965-6871	Toronto, Ontario
Police	General	Ext. 47	MSE 1A5

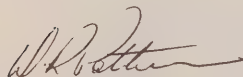
March 7, 1974.

Inspector N. Perduk,
Royal Commission on Certain
Sectors of the Building Industry,
Suite 309,
145 Queen Street West,
TORONTO, Ontario.
M5H 2N9

RE: Magnetic Tape #42.

With reference to the marginally-noted tape,
please be advised of the following:

The quality of the recording of this tape makes
it impossible to prepare a transcript relative
to the conversations recorded.


W.R. PATTERSON,
Corporal,
INTELLIGENCE BRANCH.

WRP:ldm

APPENDIX 40

Section 110 of the Criminal Code of Canada

FRAUDS UPON THE GOVERNMENT—Contractor subscribing to election fund—Punishment.**110. (1) Every one commits an offence who****(a) directly or indirectly**

(i) gives, offers, or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official, or

(ii) being an official, demands, accepts or offers or agrees to accept from any person for himself or another person, a loan, reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with

(iii) the transaction of business with or any matter of business relating to the government, or

(iv) a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled to bestow,

whether or not, in fact, the official is able to cooperate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;

(b) having dealings of any kind with the government, pays a commission or reward to or confers an advantage or benefit of any kind upon an employee or official of the government with which he deals, or to any member of his family, or to any one for the benefit of the employee or official, with respect to those dealings, unless he has the consent in writing of the head of the branch of government with which he deals, the proof of which lies upon him;

(c) being an official or employee of the government, demands, accepts or offers or agrees to accept from a person who has dealings with the government a commission, reward, advantage or benefit of any kind directly or indirectly, by himself or through a member of his family or through any one for his benefit, unless he has the consent in writing of the head of the branch of government that employs him or of which he is an official, the proof of which lies upon him;

(d) having or pretending to have influence with the government or with a minister of the government or an official, demands, accepts or offers or agrees to accept for himself or another person a reward, advantage or benefit of any kind as

consideration for cooperation, assistance, exercise of influence or an act or omission in connection with

- (i) anything mentioned in subparagraph (a)(iii) or (iv),
or
 - (ii) the appointment of any person, including himself, to an office;
- (e) offers, gives or agrees to offer or give to a minister of the government or an official a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with
- (i) anything mentioned in subparagraph (a)(iii) or (iv),
or
 - (ii) the appointment of any person, including himself, to an office; or
- (f) having made a tender to obtain a contract with the government
- (i) gives, offers or agrees to give to another person who has made a tender, or to a member of his family, or to another person for the benefit of that person, a reward, advantage or benefit of any kind as consideration for the withdrawal of the tender of that person, or
 - (ii) demands, accepts or agrees to accept from another person who has made a tender a reward, advantage or benefit of any kind as consideration for the withdrawal of his tender.

(2) Every one commits an offence who, in order to obtain or retain a contract with the government, or as a term of any such contract, whether express or implied, directly or indirectly subscribes, gives, or agrees to subscribe or give, to any person any valuable consideration

- (a) for the purpose of promoting the election of a candidate or a class or party of candidates to the Parliament of Canada or a legislature, or
- (b) with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in the Parliament of Canada or a legislature.

(3) Every one who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for five years.
1953-54, c. 51, s. 102.

APPENDIX 41

Section 383 of the Criminal Code of Canada

*Secret Commissions***SECRET COMMISSIONS—Privity to offence—Punishment—Definitions.****383. (1) Every one commits an offence who****(a) corruptly**

(i) gives, offers or agrees to give or offer to an agent, or

(ii) being an agent, demands, accepts or offers or agrees to accept from any person,

a reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, any act relating to the affairs or business of his principal or for showing or forbearing to show favour or disfavour to any person with relation to the affairs or business of his principal; or

(b) with intent to deceive a principal gives to an agent of that principal, or, being an agent, uses with intent to deceive his principal, a receipt, account, or other writing

(i) in which the principal has an interest,

(ii) that contains any statement that is false or erroneous or defective in any material particular, and

(iii) that is intended to mislead the principal.

(2) Every one commits an offence who is knowingly privy to the commission of an offence under subsection (1).

(3) A person who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for two years.

(4) In this section "agent" includes an employee, and "principal" includes an employer. 1953-54, c. 51, s. 368.

APPENDIX 42 (exhibit 295)
Freezer invoice

USE L1 5 3275

INVOICE

"Casa Loma,"

FURNITURE & APPLIANCES CO. LTD. No. 5242

652 COLLEGE STREET TORONTO ONTARIO

Cust. Phone _____

Date _____

196__

SOLD TO _____

Address _____

Del. Inst. _____

CASH OR C.O.D.

FINANCED

CHARGED

TOTAL

LIEN NOTE

I have this day received from CASA LOMA FURNITURE AND APPLIANCES CO under an agreement for a conditional sale the items mentioned above:

On which I have paid _____

Dollars and I agree to pay balance of _____

Dollars in installments as follows _____

until the whole is paid _____

It is expressly agreed that no title shall be transferred by me until said sum of _____ Dollars is fully paid in cash, and in case of failure to make any of the said payments when they become due, I will surrender said goods to my agent or attorney without process of law. In case I fail to deliver said goods to said firm, its agent or attorney at any time upon demand after any breach of this agreement I hereby grant to said firm, its agents or attorneys full authority to enter upon my premises for the purpose of removing and selling without tendering thereof for any manner of trespass. If full payment of purchase money made in the time specified, said firm shall be entitled to retain all sums paid by me as a reasonable compensation for injury to and use of said goods, and for its trouble and expense in connection with the transaction. I now accept without objection notice to said firm reading hereon obtained in written contract. And I hereby certify that there is no contest or understanding, verbal or otherwise between myself and said firm, or any of its agents or customers other than is here expressed.

WITNESS _____

SIGNATURE _____

1% INTEREST CHARGED ON OVERDUE ACCOUNTS

APPENDIX 43 *see* Volume I

APPENDIX 44 (exhibit 394)
Cheque from Acme to Romanelli

CANADIAN IMPERIAL BANK OF COMMERCE
INCORPORATED IN CANADA
 TORONTO, ONT.

DATE: 1961 10 11
 PAY TO THE ORDER OF: N. KASPER \$1,000.00

AMOUNT 1000 00/100
 ACME LATHING CO. LTD.

[Signature]

⑆03702⑉010⑆ 10⑉04811⑆

[Handwritten notes and calculations on the back of the cheque]

1000.00
 1000.00
 1000.00
 1000.00

APPENDIX 45 (exhibit 463)

Deposit slip, Durable Drywall





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APPENDIX 46 (exhibit 398)

Cheque from Northdown to Simone

CANADIAN IMPERIAL BANK OF COMMERCE
SHEPPARD AND BIRCHMOUNT
3600 SHEPPARD AVE
AGINCOURT, ONT

PAY TO THE ORDER OF CASH

March 12th 1971

THE SUM 5000 00

NORTHDOWN ORYWALL AND CONSTRUCTION LIMITED
GENERAL ACCOUNT

CURRENT ACCOUNT
CHECK NUMBER 149

5000.00

005732-0101 70-00219

0000500000

March 12 19 71

Received from

Mr. Meusard

Encashment of Mr. Meusard's cheque #149

5000.00

100 Dollars

1971

APPENDIX 47 (exhibit 508)
Purchase contract, DeMonte car

[illegible]

APPENDIX 48 (exhibit 509)

Cheque from Da Re for DeMonte car

MERCURY TERRAZZO LIMITED
TERRAZZO AND TILE
300 GARTWAY DRIVE
WILLOWDALE, ONTARIO

4553

Aug. 17 1971

PAY TO THE ORDER OF **CLAUDE FROST MOTORS LTD.**

\$ 4,051.25

4051 DOLLARS 25 CTS — DOLLARS

MERCURY TERRAZZO LIMITED

THE BANK OF NOVA SCOTIA
PARK SQUARE HOTEL
TORONTO 5, ONTARIO

⑆⑆⑆502-002⑆ 00⑆⑆⑆-⑆9⑆ ⑆0000405125⑆



APPENDIX 49 (exhibit 757)
Letter re DeMonte's car

P. John Brunner, LL.B.

Barrister & Solicitor

*Suite 607
111 Richmond Street West
Toronto, Ontario
M5H 2K5*

Telephone 362-3711

November 16, 1973

Royal Commission Enquiring
Into Certain Sectors of
the Construction Industry
145 Queen Street West
Toronto, Ontario

Attention: N. D. McRae, Esq., Q.C.

Dear Sir:

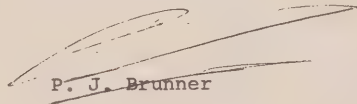
Re: Danny DeMonte

Enclosed please find a copy of a letter which is being delivered today to Mercury Terrazzo Limited. You will note that Mr. DeMonte has now made actual payment respecting the purchase of the car by Mercury Terrazzo Limited on his behalf, as well as for the moneys they paid out on his behalf with respect to the airline ticket to New York.

You will recall that Mr. DeMonte testified that he intended to repay Mercury Terrazzo Limited for the car and this has now been done.

I am also enclosing herein a copy of the two cheques that I have referred to in the letter and would ask you to kindly bring these matters to the attention of the Commissioner.

Yours very truly,


P. J. Brunner

rm
encls.

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APPENDIX 50 (exhibit 951)

Addendum to concrete forming agreement

ADDENDUM TO AGREEMENT

This Addendum made and entered into this day of 1970

BETWEEN:

THE ASSOCIATION OF RESIDENTIAL CONTRACTORS referred to
as "A.R.C."

AND:

THE COUNCIL OF CONCRETE FORMING TRADE UNIONS referred to
as the
"Council"

Whereas the parties hereto have entered into an agreement made the 1st day of November, 1968, a copy of which is attached hereto.

And whereas the parties have agreed to enter into this Addendum to the said agreement.

1. It is agreed by the Parties hereto that in connection with Article 16 - Payment of Wages and Wage Rates (Appendix 16.06) be amended as follows:-

A. The signing of this Agreement will in no way be construed to cause a reduction in wages or working conditions to employees who are receiving more than stated herein.

B. That a Welfare Benefit Plan will be put into effect as of May 1, 1970 based on fifteen cents (15¢) per hour earned, with a Trust Document type of plan and trustees included.

C. Hourly Wage Scale

<u>DATE</u>	<u>RATE</u>	<u>WELFARE</u>	<u>RATE</u>	<u>WELFARE</u>
<u>Carpenters</u>			<u>Improvers</u>	
Jan. 1/70	4.25		4.00	
May 1/70	4.50	15	4.25	15
Nov. 1/70	4.90	15	4.65	15
May 1/71	5.45	15	5.20	15
*Oct. 1/71	5.75	15	5.50	15
<u>Rodmen</u>			<u>Improvers</u>	
Jan. 1/70	4.00		3.75	
May 1/70	4.25	15	4.00	15
Nov. 1/70	4.65	15	4.40	15
May 1/71	5.20	15	4.95	15
*Oct. 1/71	5.50	15	5.25	15
<u>Cement Finishers</u>			<u>Improvers</u>	
Jan. 1/70	3.75		3.50	
May 1/70	4.00	15	3.75	15
Nov. 1/70	4.40	15	4.15	15
May 1/71	4.95	15	4.70	15
*Oct. 1/71	5.20	15	5.00	15

<u>DATE</u>	<u>RATE</u>	<u>WELFARE</u>
<u>Labourers</u>		
Jan. 1/70	3.30	
May 1/70	3.55	15
Nov. 1/70	3.85	15
May 1/71	4.20	15
*Oct. 1/71	4.50	15

*As the Agreement expires on October 31, 1971, the last increase in wages will be on October 1, 1971.

Hoisting Engineers

1st Class

2nd Class

These rates are to be governed by section A below.

1st Class - climbing mobile crane and similar equipment.

2nd Class - travellers.

(A) Future increases to cover Hoisting Engineers shall be determined by the contract between Hoisting Engineers Local Union 793 and the Toronto Construction Association (copy of this agreement to be supplied by the Union).

(B) By mutual agreement of the Hoisting Engineers Local Union 793 and Companies, there may be a training period for all new operators not to exceed three months, during which time such operators will be paid the 1st Class rates for work in 2nd Class.

2. It is understood and agreed that "commercial rates" only will be paid on all future jobs as outlined in Article 10, Clause 10.01 of this current Agreement.

3. In witness whereof the Parties have caused this Addendum to Agreement to be executed by their duly authorized representatives.

The Association of Residential Contractors referred to as "A.R.C." on its own behalf and on behalf of its members who are signatories hereto:

The Council of Concrete Forming Trade Unions

Carpenters Local Union 1190

Ironworkers Local Union 721

Cement Masons Local Union 172

Labourers Local Union 183

Hoisting Engineers Local Union
793

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APPENDIX 51 (exhibit 782)

Report on Charles Irvine's financial transactions

Money Deposited in Personal Bank Account from Union and Unknown Sources

International Union	Schedule 1	\$10,525.00
Local 117 (Net) Account 00612	Schedules 2 & 6	1,968.82
Local 117 In Trust (Net) Account 728169	Schedule 6	7,155.11
From unknown sources	Schedule 5	<u>11,899.73</u>
		<u>31,548.66</u>

Money Received from Union but not Deposited in Any Bank Account

Cheques from Local 117 in Trust (Account 728169) cashed by C. W. Irvine (January 1972 - June 1973) for which no vouchers are available	Schedules 3 & C	5,125.73
Amounts received from 'C. W. Irvine In Trust' (Account 631521) per ledger sheets prepared by C. W. Irvine. No supporting voucher or cheques are available	Schedules 4 & F	<u>3,735.94</u>
		<u>8,861.67</u>

Total Deposits from Union and Unknown Sources		<u>40,410.33</u>
---	--	------------------

Deduct Union Payments from Personal Account		
Salary payments A. Burgana	\$5,017.00	
Transfers to 'C. W. Irvine In Trust'		
(Account 31521) from Personal		
Account (Net)	Schedule 6	<u>3,586.41</u>
Net Deposits from Union and Unknown Sources		<u>8,603.41</u>
		<u>\$31,806.92</u>

Exhibits 319

SCHEDULE 1

AMOUNTS RECEIVED FROM THE INTERNATIONAL UNION,
DEPOSITED IN C. W. IRVINE'S PERSONAL ACCOUNT (27680)

<u>Date</u>	<u>Amount</u>
May 29, 1970	\$ 5,000.00

October 21, 1971	5,525.00
------------------	----------

\$10,525.00

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APPENDIX 51 (continued)

SCHEDULE A

UNKNOWN DISBURSEMENTS FROM LOCAL 117 (ACCOUNT 00612)

1969 - 1970

<u>Date</u>	<u>Amount</u>
January 7, 1969	\$ 4,335.00
January 7, 1969	4,725.00
March 6, 1969	4,862.25
October 21, 1969	7,703.75
December 22, 1969	5,265.00
February 24, 1970	4,786.75
April 7, 1970	6,854.14
June 24, 1970	3,106.50
July 7, 1970	5,000.00
July 21, 1970	2,784.00
September 14, 1970	2,409.00
December 15, 1970	<u>3,753.00</u>
	<u>\$55,584.39</u>

SCHEDULE BUNKNOWN DISBURSEMENTS FROM LOCAL 117 (ACCOUNT 00612)
1971

<u>Date</u>	<u>Amount</u>
February 16, 1971	\$ 5,396.25
June 16, 1971	1,620.56
June 22, 1971	2,024.54
July 12, 1971	5,718.00
July 19, 1971	1,123.53
August 17, 1971	2,207.25
August 20, 1971	1,000.00
September 3, 1971	1,000.00
September 21, 1971	2,444.75
October 1, 1971	1,000.00
October 14, 1971	<u>2,194.50</u>
	<u>\$25,729.38</u>

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APPENDIX 51 (continued)

SCHEDULE C

PAYMENTS TO IRVINE, NOT DEPOSITED,
 FROM LOCAL 117 IN TRUST (ACCOUNT 728169)
JANUARY 1972 - JUNE 1973

<u>Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Endorsed by</u>
March 2, 1972	Cash	\$ 600.00	C.W. Irvine
February 4, 1972	Cash	567.00	C.W. Irvine
April 25, 1972	C.W. Irvine	80.00	C.W. Irvine
July 28, 1972	C.W. Irvine	639.41	C.W. Irvine
August 5, 1972	C.W. Irvine	508.50	C.W. Irvine
August 29, 1972	C.W. Irvine	562.74	C.W. Irvine
September 12, 1972	C.W. Irvine	123.18	C.W. Irvine
October 3, 1972	Cash	500.00	C.W. Irvine
October 6, 1972	C.W. Irvine	81.55	C.W. Irvine
November 6, 1972	Cash	125.00	C.W. Irvine
November 16, 1972	Cash	<u>153.35</u>	C.W. Irvine
		<u>3,940.73</u>	
January 11, 1973	C.W. Irvine	500.00	C.W. Irvine
January 22, 1973	Cash	517.00	C.W. Irvine
January 25, 1973	C.W. Irvine	60.00	C.W. Irvine
March 22, 1973	C.W. Irvine	48.00	C.W. Irvine
April 7, 1973	C.W. Irvine	40.00	C.W. Irvine
April 18, 1973	Cash	<u>20.00</u>	C.W. Irvine
		<u>1,185.00</u>	
Total cheques cashed		<u>\$5,125.73</u>	

UNUSUAL DISBURSEMENTS TO 'C. W. IRVINE IN TRUST' DURING 1971
 (ACCOUNT 631521)

Salaries and Expenses

Bruno Zanini	\$225 x 31 weeks (salary)	\$6,975.00	
Bruno Zanini	\$ 50 x 31 weeks (expenses)	<u>1,550.00</u>	\$ 8,525.00
Quinto Ceolin	\$200 x 31 weeks (salary)		6,200.00
Frank Falbo	\$150 x 28 weeks (salary)		<u>4,200.00</u>
			18,925.00

Other Unusual Expenses

Cheques cashed by C. W. Irvine		3,735.94
Cheque to 'Anthony Fontana for services'		<u>1,000.00</u>
Total questionable disbursements		<u>\$23,660.94</u>

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APPENDIX 51 (continued)

SCHEDULE E

DEPOSITS TO 'C. W. IRVINE IN TRUST'
 (ACCOUNT 631521)

<u>Date</u>	<u>From Local 117 (00612 CIBC)</u>	<u>From C.W. Irvine Personal Account</u>	<u>From International Union</u>	<u>From Unknown Sources</u>
March 15, 1971				
March 22, 1971			\$2,000.00	\$1,000.00
April 15, 1971	\$ 1,000.00			
April 14, 1971				225.00
April 14, 1971				225.00
April 16, 1971				700.00
April 23, 1971	1,000.00			
April 28, 1971		\$ 200.00		
April 30, 1971		100.00		
May 3, 1971	2,000.00			
May 21, 1971		350.00		
May 21, 1971	1,500.00			
June 4, 1971	1,500.00			
June 18, 1971	1,500.00			
July 7, 1971	1,500.00			
July 26, 1971	1,500.00			
August 6, 1971		532.66		
August 8, 1971	1,500.00			
September 3, 1971	1,500.00			
September 15, 1971		385.00		
September 16, 1971	1,000.00			
September 29, 1971		275.70		
October 4, 1971	700.00			
October 4, 1971	2,000.00			
October 21, 1971			3,000.00	
November 16, 1971		450.00		
November 23, 1971		600.00		9.41
December 13, 1971		30.00		
December 14, 1971		250.00		
December 14, 1971		30.00		
Totals	\$18,200.00	\$3,203.36	\$5,000.00	\$2,159.41
Grand Total		\$28,562.77		

SCHEDULE F

AMOUNTS PAYABLE TO CASH OR C. W. IRVINE
 FROM 'C. W. IRVINE IN TRUST' (ACCOUNT 631521)

<u>Date</u>	<u>Payee</u>	<u>Amount</u>
March 5, 1971	Cash - CWI	\$ 20.00
March 6, 1971	Cash - CWI	150.00
March 10, 1971	Cash - CWI	24.00
March 13, 1971	Cash - CWI	150.00
March 13, 1971	Cash - CWI	30.00
March 15, 1971	CWI	187.42
March 15, 1971	CWI	320.00
March 15, 1971	Cash - CWI	24.00
March 26, 1971	Cash - CWI	200.00
March 31, 1971	CWI	26.25
March 31, 1971	Cash - CWI	16.34
April 2, 1971	Cash - CWI	32.60
April 2, 1971	Cash - CWI	8.23
April 12, 1971	Cash - CWI	12.92
April 14, 1971	Cash - CWI	16.30
April 16, 1971	Cash - CWI	150.00
April 16, 1971	Cash - CWI	150.00
April 19, 1971	Cash - CWI	42.30
April 20, 1971	Cash - CWI	67.00
April 20, 1971	Cash - CWI	20.00
April 23, 1971	Cash - CWI	20.00
April 23, 1971	Cash - CWI	30.90
May 13, 1971	CWI	300.00
May 3, 1971	CWI	200.00
May 21, 1971	Cash - CWI	135.00
May 28, 1971	Cash - CWI	21.80
May 31, 1971	Cash - CWI	50.00
June 4, 1971	Cash - CWI	21.80
June 8, 1971	Cash - CWI	34.40
June 12, 1971	Cash - CWI	47.20
June 25, 1971	Cash - CWI	24.98
July 12, 1971	Cash - CWI	47.20
July 15, 1971	Cash - CWI	225.00
July 16, 1971	Cash - CWI	21.80
July 23, 1971	Cash - CWI	38.00
July 21, 1971	Cash - CWI	21.70
August 6, 1971	Cash - CWI	21.60
August 30, 1971	Cash - CWI	30.00
August 30, 1971	Cash - CWI	105.00

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APPENDIX 51 (continued)

Amounts Payable to Cash or C. W. Irvine
From 'C. W. Irvine in Trust' (Account 631521)

SCHEDULE F
p. 2

<u>Date</u>	<u>Payee</u>	<u>Amount</u>
September 3, 1971	Cash - CWI	\$ 170.00
September 3, 1971	Cash - CWI	149.00
September 13, 1971	Cash - CWI	25.80
September 24, 1971	Cash - CWI	18.40
September 28, 1971	Cash - CWI	179.00
October 1, 1971	Cash - CWI	<u>150.00</u>
		\$3,735.94
		<u><u> </u></u>

SCHEDULE 5

DEPOSITS INTO PERSONAL ACCOUNT WITHOUT SOURCES

Unusual Deposits

1969	\$ 4,000.00
1970	2,765.84
1972	4,633.89
1973	<u>500.00</u>
Unaccounted for	<u>\$11,899.73</u>
	<u><u> </u></u>

Deposits into Personal Account Without SourcesSCHEDULE 5
P. 2

<u>Date</u>	<u>Amount</u>
<u>1969</u>	
March 17	\$ 500.00
May 5	1,000.00
May 28	<u>2,500.00</u>
Total - 1969	<u>\$ 4,000.00</u>
	<u><u> </u></u>
<u>1971</u>	
January 4	\$ 1,565.84
January 20	1,000.00
May 7	<u>200.00</u>
Total - 1971	<u>\$ 2,765.84</u>
	<u><u> </u></u>
<u>1972</u>	
June 28	\$ 3,500.00
July 24	410.89
September 29	250.00
September 29	<u>473.00</u>
Total - 1972	<u>\$ 4,633.89</u>
	<u><u> </u></u>
<u>1973</u>	
June 13	<u>\$ 500.00</u>
Total - 1973	<u>\$ 500.00</u>
	<u><u> </u></u>

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APPENDIX 51 (concluded)

SCHEDULE 6

TRANSFERS TO PERSONAL ACCOUNT FROM UNION ACCOUNTS BY ACCOUNT NUMBER

1. Union Account 00612 (CIBC)

Amounts received	\$1,968.82
Amounts transferred	-
Questionable amounts	\$1,968.82

2. Union Account 728169

Amounts received	\$7,616.11
Amounts transferred	461.00
Questionable amounts	\$7,155.11

3. Union Account 631521

Amounts received	\$ 440.00
Amounts transferred	4,026.41
Excess of payments over receipts	(\$3,586.41)

SCHEDULE 6 p. 2

CHRONOLOGICAL LIST OF TRANSFERS

<u>Date</u>	<u>Transfers in</u> <u>Amount</u>	<u>Transfers out</u> <u>Amount</u>	<u>Account</u> <u>No.</u>
July 15, 1969	\$ 668.82		00612 CIBC
July 18, 1969	800.00		00612 CIBC
February 2, 1970	500.00		00612 CIBC
April 28, 1971		\$ 200.00	631521
April 30, 1971		100.00	631521
May 21, 1971		350.00	631521

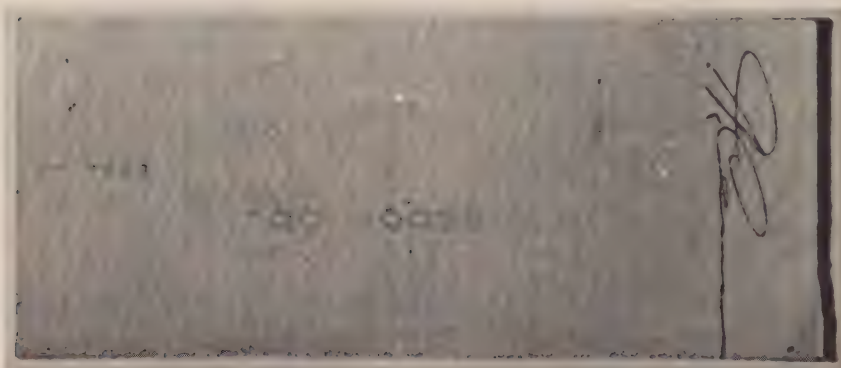
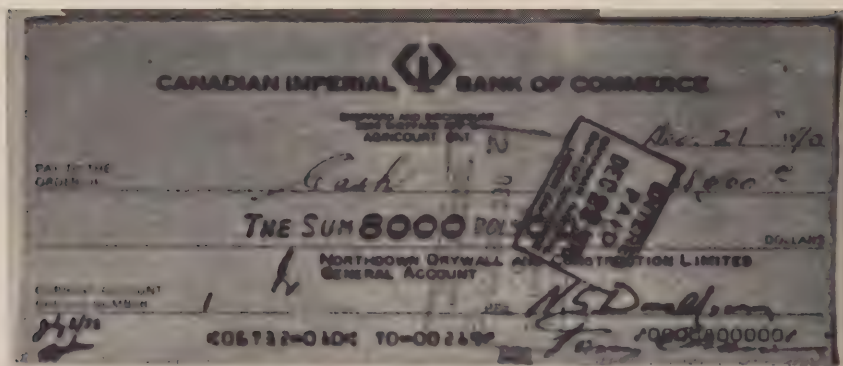
Chronological List of TransfersSCHEDULE 6
P. 3

<u>Date</u>	<u>Transfers in</u> <u>Amount</u>	<u>Transfers out</u> <u>Amount</u>	<u>Account</u> <u>No.</u>
August 6, 1971		532.66	631521
September 15, 1971		385.00	631521
September 29, 1971		275.70	631521
November 16, 1971		450.00	631521
November 23, 1971		600.00	631521
December 13, 1971		30.00	631521
December 14, 1971		250.00	631521
December 14, 1971		30.00	631521
February 24, 1972	1,000.00		728169
August 28, 1972	295.05		728169
September 5, 1972	821.06		728169
September 25, 1972	1,000.00		728169
October 16, 1972	500.00		728169
October 26, 1972	500.00		728169
January 2, 1973	\$ 2,000.00		728169
January 12, 1973	500.00		728169
January 23, 1973	500.00		728169
February 5, 1973	500.00		728169
May 18, 1973		\$ 173.05	631521
May 23, 1973		300.00	631521
June 1, 1973		350.00	631521
June 13, 1973		161.00	728169
June 14, 1973		300.00	728169
June 18, 1973	60.00		631521
June 21, 1973	370.00		631521
June 27, 1973	10.00		631521
	<u>\$10,024.93</u>	<u>\$4,487.41</u>	

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APPENDIX 52 (exhibit 408)

Cheque to Donaldson dated 21 December 1970 for \$8000.



APPENDIX 53 (exhibit 409)

Cheque to Donaldson dated 19 April 1972 for \$6000.

CANADIAN IMPERIAL BANK OF COMMERCE
SHEPPARD AND BIRCHMOUNT
3899 SHEPPARD AVE E.
AGINCOURT, ONT.

APRIL 19th 72

PAY TO THE ORDER OF CASH \$6,000.00

THE SUM 6000 0021 072 DOLLARS

NORTHTOWN DRYWALL AND CONSTRUCTION LIMITED
GENERAL ACCOUNT

CURRENT ACCOUNT 2094
CHECK NUMBER

July 6/72

0067120101 70002190000000000000

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APPENDIX 54 (exhibit 747)


Cheque to Thomson from Northdown for \$17,000.

CANADIAN IMPERIAL BANK OF COMMERCE
SHEPPARD AND BRIMLEY
AGINCOURT, ONT.
May 1st 1953
PAY TO THE ORDER OF *Mr* ALEX THOMSON \$17,000.00
THE SUM 17000 00/100 DOLLAR
NORTHOWN CRYSTALL AND CONSTRUCTION LIMITED
- General A
PER *[Signature]*
15712-0606 70-002190

Pay to the order
Alex Hones.
Alex Hones
97
11/53



APPENDIX 56 (exhibit 880)
Cheque to Thomson from Accurate Engraving for \$2887.50



THE BANK OF NOVA SCOTIA

MIMICO BRANCH,
406 ROYAL YORK RD.,
TORONTO, ONT.

NO. 2887
DATE June 25th/73
\$2887.50

PAY TO ORDER OF O. THOMSON

SLM OF -----Two thousand-eight-hundred-and-eighty-seven-----50 DOLLARS

ACCURATE ENGRAVING LTD.
[Signature]
[Signature]

From 6/23
[Signature]

⑆11932⑈002⑆ 00177⑈16⑈ ⑈0000288750⑈

PAY TO THE ORDER
OF ALICIA HOMES

Alicia Homes

THE BANK OF NOVA SCOTIA
JUN 26 1973
MIMICO BRANCH
TORONTO, ONT.
30272

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APPENDIX 57 (exhibit 881)


Cheque to Thomson from Cameo Interiors for \$4000.

CAMEO INTERIORS
LIMITED
PAID TO THE ORDER OF Alex Thomson \$4,000.00
4000 DOLLARS
CANADIAN IMPERIAL BANK OF COMMERCE
No. 0712
7/21/83
21-00517
700004000001

Deposit only
7/21/83
Ac # 48-15
Alex Thomson
34272
34272

APPENDIX 58 (exhibit 890)

Cheque to Thomson from Cameo Interiors for \$500.

 **CAMEO INTERIORS**
LIMITED

PAY TO THE ORDER OF Alex Thomson Dec. 18 1972
\$ 500.⁰⁰ \$ 500.⁰⁰

500 DOLS 00 CTS DOLLARS

CANADIAN IMPERIAL BANK OF COMMERCE
TORONTO, ONTARIO

Nº 0231 *[Signature]*
Cameo

⑆05022⑉010⑆ 21⑉00517⑈ ⑈0000050000⑈

[Faint stamp]

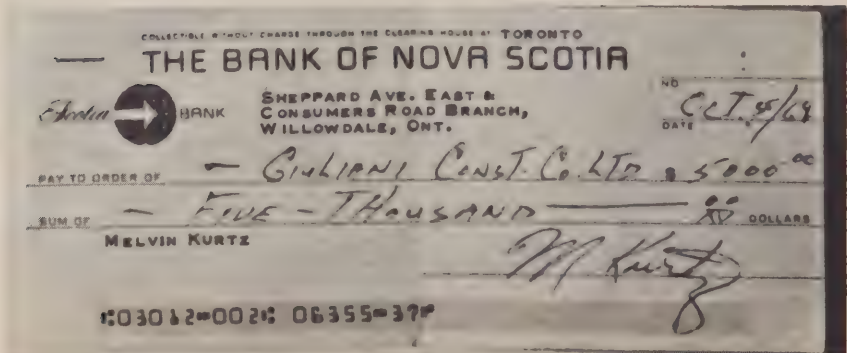
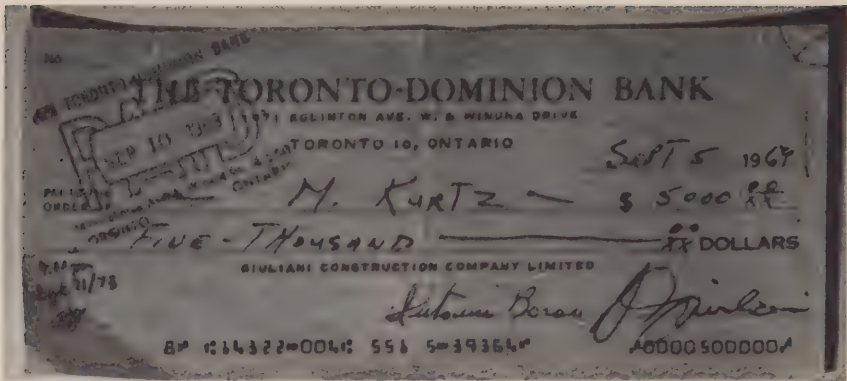
[Handwritten signature: Alex Thomson]

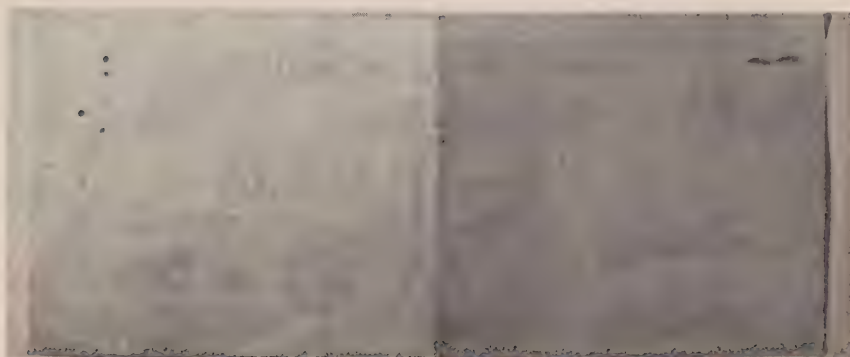
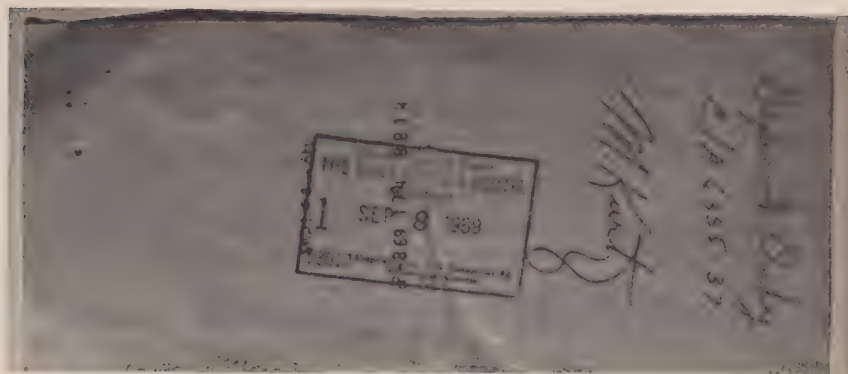
[Handwritten signature: Cameo]

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APPENDIX 59 (exhibits 645 and 646)

Cheques to M. Kurtz from Giuliani





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APPENDIX 60 (exhibit 975)

Letter of intent

TELEPHONE
461-4333

196 WICKSTEED AVE.
TORONTO 17

GOLDIE-BURGESS LIMITED BUILDING CONSTRUCTION ENGINEERS

February 6, 1970.

Structural Formwork Ltd.,
12A Finch Ave., W.,
Suite 20,
Willowdale 444, Ont.

ATTENTION: MR. W. ZANUSSI

Dear Sir:

RE: THE MANUFACTURERS LIFE CENTRE

We are writing to you on behalf of the Manufacturers Life Insurance Company to confirm that it is their intention to accept your proposal of November 5, 1969 (with the exception of the items noted below) and to enter into a contract with you for the forming and concrete placing for the subject job.

The form of contract which will be used will be basically a cost plus with a fixed fee of TWO HUNDRED AND TWENTY THOUSAND DOLLARS (\$220,000.00) to a guaranteed upset maximum. You will receive 50% of the savings which might be made to a maximum receipt by you of FIFTY THOUSAND DOLLARS (\$50,000.00). While your actual contract amount will be subject to some revision due to drawing changes between now and the time when a contract is signed your maximum upset price at the present time is the sum of TWO MILLION, FOUR HUNDRED AND THIRTY-EIGHT THOUSAND, FIVE HUNDRED AND ONE DOLLARS (\$2,438,501.00) including your fee.

The exceptions to your proposal of November 5th referred to in the first paragraph of this letter are as follows. On page 3 of your letter in Items 1 and 2 you refer to the question of wages for key personnel and the matter of equipment rentals during any work stoppage beyond your control. The decision as to the personnel to be retained and the equipment to be kept on rental would be made by the Construction Manager.

Again on page 3 of your letter of November 5th in Items 5, 6 and 7 reference is made to terms of payment and the matter of holdback. As

-2-

Structural Formwork Ltd.

February 6, 1970

previously explained this question is presently under review by the Owner's solicitor. It is, however, understood that the contract will provide for a monthly payment and some form of accelerated holdback release. You are to endeavour to obtain a labour contract which will provide for wages as set out in your proposal.

You have agreed that all items constituting "costs" under the terms of your contract will be subject to scrutiny by our staff and that you will co-operate in this regard. When submitting your monthly draw you will be required to provide us with your estimate of your subsequent month's draw in order to assist us in the establishment of a cash flow. It is also agreed that all major purchases of materials or equipment will be made on the Owner's purchase order and in this regard we have provided you with a supply of purchase order requisition forms.

We look forward to working with you on the Project, and remain,

Yours very truly,

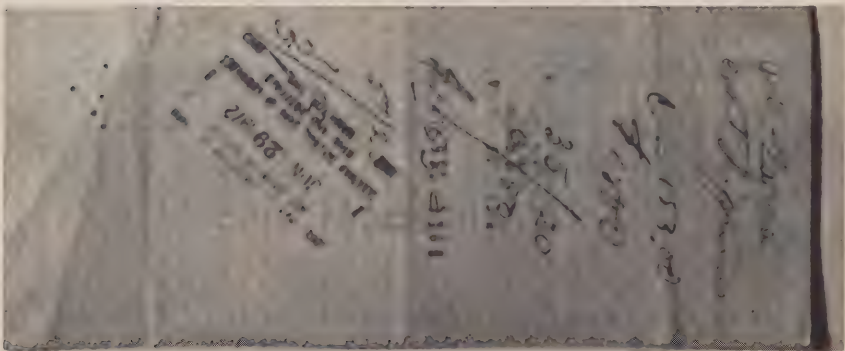
GOLDIE-BURGESS LIMITED

A handwritten signature in cursive script, reading "John P. Goldie".

John P. Goldie.

JPG/c1

APPENDIX 61 (exhibit 433)
Romanelli's cheque dated 26 June 1972 for \$2000.



APPENDIX 62 (exhibit 448)
Deposit slip dated 29 June 1972 for \$1000.



APPENDIX 63 (exhibit 1087)

Criminal record of Natale Luppino

ALL CORRESPONDENCE TO BE ADDRESSED TO -

THE COMMISSIONER,
M.C.M. POLICE,
O. T.A.A.

ATTENTION: IDENTIFICATION UNIT

F.P.S. NO. 939312.

ONTARIO PROVINCIAL
NATIONAL POLICE SERVICE

26 JULY 73

CONFIDENTIAL
RECORD

W. H. HARASYM C/DEPT.
ASST. DIRECTOR IDENTIFICATION.

DATE OF SENTENCE PLACE OF CONVICTION	CHARGES	DISPOSITION	NAME AND NUMBER
1959 - SEPT. 2 HAMILTON, ONT.	THEFT UNDER \$50.	DISMISSED.	NATA LUPPINO. PD#501-59.
1962 - FEB. 19 HAMILTON, ONT.	FRAUD, SEC. 323 (1) C.C.	SUSP. SENT. 1 YR. - PROBATION.	NATALIE LUPPINO PD.#501-59.
1962 - JUNE 11 HAMILTON, ONT.	(1) ASSAULT WITH INTENT. (2) CAUSE DISTURBANCE.	(1-2) NOLLE PROS.	NATALE LUPPINO
1962 - JUNE 19 HAMILTON, ONT.	ASSAULT O.A.B.H., SEC. 231 (2); C.C.	12 MOS. - APPEALED.	ONT. REF. GUELPH #91741
1962 - JULY 9		TRANSFERED TO IND. FARM "PLANTFORD", ONT.	59.
1963 - JAN. 26		RELEASED ON PAROLE. SENTENCE DUE TO EXPIRE MAY 13/63.	
1963 - JAN. 26		APPEAL DISMISSED AS ABANDONED.	
*1964 - DEC. 1 REC'D AT DEPT. OF CORR. WILMING- TON, DEL. USA	(1) ATT. TO OBTAIN MONEY UNDER FALSE PRETENCES (2) CONSPIRACY	(1-2) 6 MOS.	NATALE LUPPINO #N29197
*1964 - DEC. 16 PHILADELPHIA, PA. USA	LARCENY OF AUTO	NO DISPOSITION	PD #38223.
1968 - JAN. 27 HAMILTON, ONT.	POSS. OFFENSIVE WEAPON	30 D. 1/2 D. 20 DAYS	NATALE LUPPINO PD #501-50

This is a summary of information submitted by law enforcement agencies. All entries are supported by fingerprints except those indicated by the asterisk (*).

APPENDIX 65 (exhibit 660)

Statement of net worth of Paul Volpe

Cedarbrooke,
30th Side Line,
Whitevale, Ontario.

June 19, 1973.

Department of National Revenue,
District Taxation Office,
36 Adelaide Street East,
Toronto 120, Ontario.

Attention: E. C. Drakich

Gentlemen:

The following is a Statement of my Assets and Liabilities as of December 31, 1971:

ASSETS

Personal effects

- Clothing, Jewellery, etc.	Estimated Value	\$2,000.00
- Gun Collection	Estimated Value	2,500.00
- Cameras, Radio Equipment, Etc.	Estimated Value	1,000.00

Cash - Approximately 55,500.00

\$ 61,000.00

LIABILITIES

Legal Expenses - Ludwig, Fisher & Holness	3,000.00	
Loan Payable - Pat Volpe	<u>7,500.00</u>	
		<u>10,500.00</u>

NET EQUITY

\$ 50,500.00

To the best of my knowledge, the above items represent all of my Assets and Liabilities as of December 31, 1971.

Yours very truly,
Paul Volpe

APPENDIX 66 (exhibit 391)
Criminal record of Paul Volpe



METROPOLITAN TORONTO POLICE
CRIMINAL RECORD
OF

Paul VOLPE, Mtp: 765/65

DATE	PLACE	
1968, June 21	Toronto, Ont	Conspiracy - 2 years
1970, Oct. 13	Toronto, Ont	Fraud ; - Fined \$200 or 2 months.

APPENDIX 68 (exhibit 392)

Criminal record of Charles Yanover



METROPOLITAN TORONTO POLICE
CRIMINAL RECORD
OF

Charles Stephen YANOVER MTP: 90/69

DATE	PLACE	
1971, Jan. 22	Toronto, Ont.	Conspiracy - Possession of restricted False Pretences - 2 years on 1st charge 6 months concurrent with #1 on 2nd charge and 3 months consecutive with #1 on 3rd charge.

APPENDIX 70 (exhibit 390)
Criminal record of Nathan Klegerman



METROPOLITAN TORONTO POLICE
CRIMINAL RECORD
OF

Nathan Isreal KLEGERMAN, Mtp: 1728/63

DATE	PLACE	
1964, Nov. 5	Toronto, Ont	Possession (3 charges):- 6 years each charge concurrent.
1965, Nov. 1	Toronto, Ont	Breach of Bankruptcy Act:- 1 year c nsecutive with sentence dated Nov 5/64 & fined \$1,000 or 1 year additional

APPENDIX 71 (exhibit 1070)

Traffic summons to Paul Volpe

CANADA
PROVINCE OF ONTARIO
JUDICIAL SYSTEM
METROPOLITAN TORONTO

TRAFFIC COURT A486935-1

The information being laid upon oath deposes and says:

On the 30 day of Nov 1972 Time 9 [M]

NAME Paul Volpe

ADDRESS Blanche de la Harpe St.

DRIVER'S LICENSE NO. A106913 Birthdate 1942 CLASS V RESTRICTED []

This summons is to Paul Volpe

Upon a Highway named Blanche de la Harpe St.

AND DID COMMIT THE OFFENCE OF MPH 100 MPH Zone

OR Driving 100 mph

CONTRARY TO THE HIGHWAY TRAFFIC ACT

DR. John A. McKeown JUN 6 1972

FOR THE PURPOSES OF INSURANCE
THIS IS HEREBY TO REMAIN UNENFORCEABLE UNTIL IT BECOMES EFFECTIVE
IN THE PROVINCE OF ONTARIO

8850 YONGE STREET, NORTH YORK

ON THE COURT OF JUSTICE

IN WITNESS WHEREOF I HAVE HEREON SET MY HAND AND SEAL OF OFFICE
CLERK OF THE COURT

For Office Use

COPIES OF THIS SUMMONS TO BE
FILED IN THE COURT OF JUSTICE

COPIES OF THIS SUMMONS TO BE
FILED IN THE COURT OF JUSTICE

NO. 1070

APPENDIX 72

Criminal record of Daniel Gasbarrini

ALL CORRESPONDENCE TO BE ADDRESSED:-

THE COMMISSIONER,
R.C.M. POLICE,
OTTAWA

ATTENTION IDENTIFICATION BRANCH

P.P.S. NO. 480017

IDENTIFICATION BRANCH
- A NATIONAL POLICE SERVICE -CONFIDENTIAL
RECORD

DATE OF SENTENCE PLACE OF CONVICTION	CHARGES	DISPOSITION	NAME AND NUMBER
1939 - FEB. 15 HAMILTON, ONT.	BREACH OF NARCOTIC ACT.	DISMISSED	DAN GASBARRINI, PD #622/38.
1941 - SEPT. 16 HAMILTON, ONT.	(1) THEFT (2) FALSE PRETENCES (2 CHGS.) (3) ATTEMPT THEFT (2 CHGS.)	(1-3) 3 MOS. DEF. & 9 MOS. INDEF. ON EACH CHG. CONC	DAN GASPARANI, ONT. REFTY. GUELP #55338.
1942 - FEB. 12		PAROLED BY THE ONT. BOARD OF PAROLE. SENTENCE DUE TO EXPIRE JULY 20/42.	
1946 - MARCH 11 TORONTO, ONT.	RECEIVING	WITHDRAWN	DANIEL GASBERINI PD #1113/45.
1949 - OCT. 27 VANCOUVER, B.C.	CONSPIRACY TO DISTRIBUTE NARCOTICS	7 YRS. APPEALED.	DAN GASBERINI, B.C. PEN'Y #6798
1950 - FEB. 3		APPEAL DISMISSED.	
1952 - NOV. 5		TRANSFERRED TO COLLIN'S BAY PEN'Y	#3704.
1955 - JAN. 15		RELEASED ON EXPIRATION OF SENTENCE.	
1970 - MAR. 25 FINGERPRINTED BY USI & NS, BUFFALO, N.Y., U.S.A.	VIOLATION OF IMMIGRATION LAWS	NO DISPOSITION	DANIEL GABRIEL GASBARRINI #A11 468 299 (BUF)

This is a summary of information submitted by law enforcement agencies. All entries are supported by fingerprints except those indicated by the asterisk (*).

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APPENDIX 73 (exhibit 840)

Analysis of work for Royal York Hotel

MECHANICAL CONSULTANTS WESTERN LTD.

-4-

F. General Contract Analysis

1. Bid by R. J. Kirby January 4th, 1966 \$ 525,000
2. Bid by R. J. Kirby January 12th, 1966 443,900

Consisting of

a) Demolition of plaster	99,150
b) Guestroom plaster	161,700
c) Public area plaster	52,800
d) Duct cleaning	8,730
e) Sub-Total	322,380
f) Misc. cutting, clean-up & dust protection	121,520
	\$443,900

3. Bid by R. J. Kirby January 18/66
approximately 358,000
4. Bid by E. Mayer of Winnipeg
January 12th, 1966 255,595
5. Bid by E. Mayer of Winnipeg
January 19th, 1966 248,595
6. Saving quoted by E. Mould for use
of E. Mayer on January 18th, 1966 116,930

G. Electrical Contract Analysis

1. Bid by Industrial Electric
January 4th, 1966 290,000
2. Bid by Industrial Electric
January 12th, 1966 269,500
3. Bid by Industrial Electric
January 18th, 1966 247,000
Consisting of wiring 108,000
risers 139,000

Continued

CERTIFIED

to be a true copy of a document
delivered by an investigator, to

THE ROYAL COMMISSION

ON

CERTAIN SECTORS OF THE BUILDING INDUSTRY

B. Raju



*Def 7/73
2:30 PM
[Signature]*

APPENDIX 74 (exhibit 841)

Agreement between Mayer's Cabinets & Interiors Ltd. and Cloutier & Elliott Ltd. and Brandson Bros. Ltd.

THIS AGREEMENT made this day of February, 1966.
BETWEEN:

MAYER'S CABINETS & INTERIORS LTD.,

Hereinafter called the "Contractor"

— and —

CLOUTIER & ELLIOTT LTD., and
BRANDSON BROS. LTD.,

Hereinafter called the "Sub-Contractor"

WHEREAS the Contractor has agreed with English & Mould Ltd. (hereinafter referred to as the "Prime Contractor") to provide all the materials and perform all the work shown on the drawings and described in the specifications entitled Royal York Hotel, Toronto, Ontario, prepared by Mechanical Consultants Western Ltd., (hereinafter referred to as the "Architect") and to do everything required by the specifications and the drawings;

AND WHEREAS the Sub-Contractor has agreed with the Contractor to do the portion of the said work and to supply the materials necessary therefor as is hereinafter set forth;

NOW THIS AGREEMENT WITNESSETH as follows:

1. The Sub-Contractor agrees to furnish all material and perform all work as described in Article 2 hereof for the Royal York Hotel for the Contractor at the City of Toronto, in the Province of Ontario, Canada, in accordance with the general conditions of the contract between the Prime Contractor and the owner and in accordance with the drawings and specifications prepared by Mechanical Consultants Western Ltd., (hereinafter called the "Architect") all of which general conditions, drawings and specifications form a part of a contract between the Contractor and the Prime Contractor and the Prime Contractor and the owner, and are hereby made a part of this contract.

2. The Sub-Contractor and the Contractor agree that the materials to be furnished and the work to be done by the Sub-Contractor are:

All lathing and plastering incidental to air conditioning installation, according to the plans and specifications as prepared by the Architects including but not limited to the following areas:

Approximately One Thousand, One Hundred and Ten (1,110) guest rooms,

Bathrooms as noted,

Corridors as noted,

Convention Areas,

Rental Areas,

Public Areas.

3. The Sub-Contractor agrees to complete the work described in the foregoing Article according to the time schedule prepared by the Architect with the completion date to be on or about the 15th day of July, 1966. The Sub-Contractor agrees to begin, carry on and complete the work hereinbefore described in a prompt and diligent manner and so as not to interfere with or delay the work of the Contractor or the work of other Sub-Contractors. If the Sub-Contractor fails to observe this agreement and by reason thereof the Contractor becomes liable to the owner for penalties or damages, the Sub-Contractor shall pay to the Contractor the proportion of such penalties or damages for which he has been responsible which in the event of a dispute shall be determined in the first instance by the Architect but subject to an appeal to arbitration as provided in the general conditions of the contract between the owner and the Contractor.

4. The Contractor agrees to pay the Sub-Contractor for the performance of his work the sum of One Hundred and Twelve Thousand, Six Hundred and Forty (\$112,640.00) Dollars, in current funds, subject to additions and deductions for changes as may be agreed upon, and to make payments on account thereof in accordance with Article 6 hereof.

5. The drawings and specifications forming part of the contract documents between the Contractor and the Prime-Contractor and the Prime-Contractor and the owner shall, so far as they relate to the work mentioned in this sub-contract, be binding upon the Sub-Contractor, and the general conditions of the contract between the Contractor and the owner, so far as they are applicable to this sub-contract, shall be binding upon the Contractor and the Sub-Contractor. Without limiting in any way the generality of the foregoing it is hereby agreed between the Parties to this sub-contract that the Architect shall have the supervision of all work and material furnished under this sub-contract and that any dispute as to such work and material shall be decided in the first instance by the Architect, subject to an appeal to arbitration as provided in the said general condi-

tions. And it is further agreed that all rights and remedies given to the owner by the terms of such general conditions shall enure to the benefit of and be exercisable by the Contractor as to any matters arising under this sub-contract.

6. The Contractor agrees to pay the Sub-Contractor in current funds for the performance of the sub-contract as follows:

Payments will be made by the Contractor to the Sub-Contractor on or about the day of every month covering ninety (90) percent of the value of the work completed by the Sub-Contractor to the end of the previous month ...

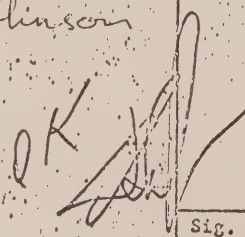


APPENDIX 75 (exhibit 621)

List of drywall bidders for Commerce Court project

PAGE & STEELE, ARCHITECTS, 181-185 BAY STREET, TORONTO 1
 COMMERCE COURT PROJECT

PROPOSED LIST OF BIDDERS FOR DRYWALL

TRADE BUDGET ALLOWANCE \$

BIDDERS	RECOMMENDED BY			REMARKS
	CONTRACTOR	ARCHITECT	OWNER	
Norman Lathing Ltd.	✓	✓		initial list of bidders approved
Cesaroni Brothers Ltd.	✓	✓		
Coil Wall Ltd.	✓	✓		
Gambin Brothers Ltd.	✓	✓		
Industrial Drywall Co. Ltd.	✓	✓		
Polycoustics Ltd.	✓	✓		
Architectural Acoustics & Drywall Co.	✓	✓		
Austin Drywall	✓	✓		
Donaldson Barron Ltd.	✓	✓		
Metropolitan Dry Wall (Industrial) Ltd.	✓	✓		
C.M.			✓	added at time of tender
Rawlinson			✓	
				
	Sig.	Sig.	Sig.	
				
	Date	Date	Date	
	APR 20 1970	12/mar/70		

APPENDIX 76 (exhibit 622)

List of bids received for Commerce Court project

MASON-KIEWIT

GENERAL CONTRACTORS FOR COMMERCE COURT PROJECT

TO PAGE & STEELE

DATE 23 June 70

185 BAY ST., TORONTO, ONTARIO

ATTENTION: MR. R. MARSH

ENCLOSED

DRAWINGS

SPECIFICATIONS

☐ SPECIFICATIONS
☒ DEPOSIT CHEQUES (payroll)

UNDER SEPERATE COVER

☐ DRAWINGS

SPECIFICATIONS

PREPARED BY

[illegible]

REMARKS

ABOVE CHEQUES TO BE RETURNED TO BIDDERS WHEN
TENDER DOCUMENTS RETURNED TO ARCHITECTS

EASE SIGN & RETURN 2nd COPY

DATE RECEIVED

RECEIVED BY

FORM 364K

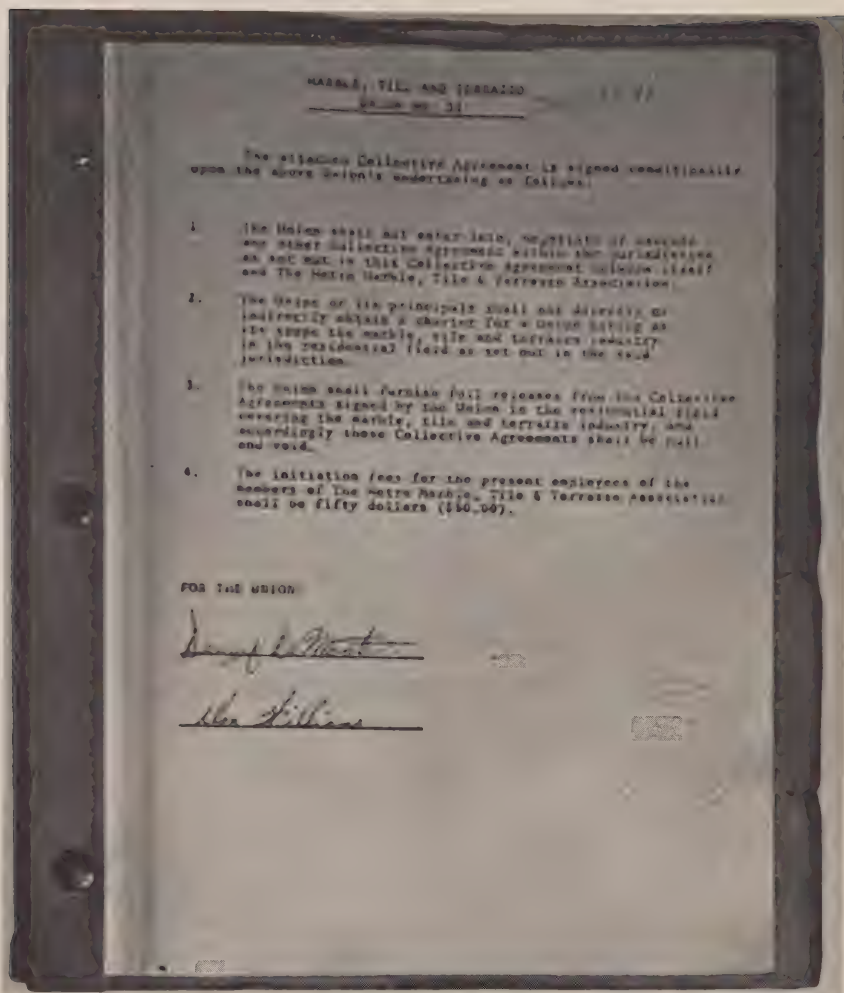
List of contractors who
pocketed up tender package

MASON-KIEWIT

H. J. Scholten

APPENDIX 78 (exhibit 497)

Agreement between Paolini and Local 31



APPENDIX 79 (exhibit 848)

Statement of Amis' financial transactions with Local 598

INVESTIGATION OF F. AMIS'S
FINANCIAL TRANSACTIONS WITH LOCAL 598

	<u>Total</u>	<u>1972</u>	<u>1973</u>
A. F. Amis (September 1, 1972 - November 1973)			
Salary	\$13,485.40	\$ 3,979.00	\$ 9,506.40
Overtime	17,708.81	2,336.34	15,372.47
Car allowance	1,980.00	660.00	1,320.00
Business Agent's allowance	3,050.00	750.00	2,150.00
Honorariums	1,250.00	250.00	1,000.00
Expenses	1,274.57 <u>2,459.89</u>	116.00	2,343.89
Welfare and Pension	.46 780.60	136.40	644.20
Vacation Pay	1,569.81	318.17	1,251.64
Certified cheques	8,320.32	8,470.32	
	<u>50,604.83</u>	<u>17,016.23</u>	<u>33,588.60</u>
Sharon Acorn (September 1, 1972 - November 1973)			
Salary	9,150.00	2,700.00	6,450.00
Overtime	6,092.39	917.45	5,174.94
Vacation Pay	627.06	162.00	465.06
	<u>15,869.45</u>	<u>3,779.45</u>	<u>12,090.00</u>
Total	<u>\$66,474.28</u>	<u>\$20,795.68</u>	<u>\$45,678.60</u>

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APPENDIX 80 (exhibit 997)

Report by Leonard Lawrence on Local 18

LEONARD S. LAWRENCE

CHARTERED ACCOUNTANT

O'HANIAN BUILDING
517 UPPER SHERMAN
HAMILTON, ONTARIO
TEL.: 383-8518

January 15, 1971

Mr. J. Tarbutt, President,
Local 18, United Brotherhood of
Carpenters and Joiners of America,
82 Ferguson Avenue North,
Hamilton, Ontario.

Dear Sir:

On August 13th I was engaged to proceed immediately with a complete investigation of the affairs of Local 18. My authority to do so was detailed in a telegram dated August 13, 1970 which read as follows:

"You are advised to proceed immediately in the engaging of a chartered accountant to perform an audit of all books and records of Local 18. The trustees and all persons handling monies and records of Local 18 are to assist the chartered accountant to such extent as the said accountant may require or deem necessary. Once the audit has been completed a copy of same is to be forwarded to the writer. Upon receipt of said copy it shall then be determined by the writer if consultations with the general office as to what further action and investigations will be required. If clarification is required concerning the contents herein or matters pertaining to the audit you are to contact the writer. Copies of this wire are being forwarded to Local 18 Trustees."

Signed: William Stefanovitch,
General Executive Board
Member.

With this telegram as my authority to proceed I then met with you to discuss the details of my engagement. As I made clear to all persons throughout my investigation I am responsible to you and Mr. Stefanovitch, this I did because it avoided any conflicts within the union as to who I was answerable to.

As we discussed I was to carry out a complete investigation into all facets of the Local 18 business affairs. As I made clear at the time, my investigation was not a standard audit but was an investigation into all facets of the union's affairs. As we agreed I was to have complete discretionary powers to choose what I was to investigate. I now will detail the steps that I took and the conclusions I reached.

The first step taken was to familiarize myself with the day to day transactions carried out by the office staff, the financial secretary and the treasurer. Once I discovered the routine of the day to day work I decided to do a complete check on a two week period in July 1970.

(2)

My investigation of this two week period uncovered the following types of irregularities:

- (1) Complete sets of numbers of duplicate receipts missing.
- (2) Duplicate receipts marked as paid by cheque but actually upon investigation paid by cash.
- (3) Cheques on hand up to one month stale dated.
- (4) Receipts cancelled but new receipts never re-issued.
- (5) Irregular depositing of funds.
- (6) Irregular patterns of people paying in advance that never before paid in advance.
- (7) Cheques being deposited three to four weeks after date receipt issued.
- (8) Irregularities uncovered related to out of town members.

At this point I felt that the most urgent need was to have the existing system completely updated and to build in proper controls and guides. The old system was in principal sound but it lacked greatly in the area of balancing and control over the flow of monies.

At this time I would like to make a few comments on the existing system as compared to the old day book system as was previously in existence. The principal of prenumbered receipts is far superior to the day book approach and from reviewing records back prior to the institution of the prenumbered receipts I can see that the day book idea lacked in many basic controls over monies received.

I attempted to audit a month of the old day book system and found that no cross references existed so that the only course of action was to accept the figures as recorded and only check the mathematical accuracy of the additions. The existing system even though lacking in controls did provide me with the ground work on which to build proper controls.

I have attached a schedule detailing the daily routines that have been instituted.

At this point a meeting was held with Mr. Stefanovitch in which he asked my initial findings. I detailed to him the list of irregularities I had uncovered and asked for his recommendations. He stated that all office staff was bonded and if monies were missing that I should work backwards year by year and try to accumulate both evidence and dollar value so to be able to make a claim to the bonding company.

I then told him that I would need complete details of the bonding coverage to enable me to arrive at an opinion as to the possibility of recovery from the bonding company. At this time I voiced the view that with the condition of the accounting records it would be very unlikely that proper evidence could be accumulated that would substantiate the payment of any claim. Mr. Stefanovitch said he would attempt to get me proper guidelines from the head office but in the meantime this investigation should continue in detail so to prove one way or the other if bonding recovery was possible.

At this point to follow up a letter sent by you to Washington I corresponded with head office to try to clarify the bonding situation. After extensive correspond-

(3)

ence and discussions the end result was that no definite commitment was forthcoming and we would have to take our chances on possible recovery.

At this point I sought independent advise from an insurance executive who advised me that the amount of detailed information necessitated by an insurance company to live up to a bonding commitment was extensive and had to be based on complete documented facts with no assumptions included. Bearing this in mind I decided to do a detailed investigation for the first seven months of 1970 and then decide at that time if it warranted the time and cost to go back further.

My detailed checks for the months of July to January 1970 was to do with cash received. I carried on the following audit procedures.

- (1) Checked all duplicate deposit slips to bank statements.
- (2) Checked all receipts within each deposit to make sure total of face value of receipts equalled the total deposit.
- (3) Attempted to reconcile what payments within each deposit were made by cheque or cash.
- (4) Checked for the continuous use of duplicate receipt numbers.
- (5) Checked cancelled receipts to see if new receipts subsequently re-issued.
- (6) Spot checked posting to the individual ledger sheets with direct attempts to check for errors and duplications.
- (7) Summarized extra deposits that were recorded on the bank statements but never substantiated by duplicate deposit slips.
- (8) Checked dating stamped on individual duplicate receipts.

These audit procedures took approximately eight working days and produced the following results:

- (1) All duplicate deposit slips agreed with the bank statement except that additional deposits were unaccounted for. The explanation received was that small periodic deposits were for N.S.F. cheques that were subsequently deposited when duplicate cheques were received. This explanation seemed to tie in with the daily transactions of the Union.
- (2) All the individual deposits balanced with the totals of the receipts attached.
- (3) It was impossible to relate precisely what amounts were paid by cheque and cash because of the practice at that time of using excess funds on hand to cash members paid by cheques.
- (4) In the attempt to reconcile what payments were made by cheque and cash it was discovered that some receipts marked paid by cheque were actually paid by cash.

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- (5) It was discovered that complete sets of numbers of duplicate receipts were missing. Individual receipts on specific pages were missing and two or three sets of numbers were in use at any one time.
- (6) Found frequently that cancelled receipts did not have new ones reissued and corrections had been made in the ledger books when duplicate entries had been made.
- (7) Discovered that in some cases members had been credited with payment of dues 3 to 4 months in advance, that this was subsequently cancelled or didn't fit the pattern of his previous payments in that he had always been late or never paid more than one or two months at a time.
- (8) Discovered that the retired members duplicate receipts were missing this was attributed to the robberies, and certain whole sets of receipts were also missing.
- (9) Discovered that certain members cheques had been deposited three to four weeks after date receipt issued and posted to ledger book.
- (10) Discovered some cheques on hand up to one month stale dated.
- (11) The majority of irregularities related to out of town members who regularly paid by cheque.

At this point I was asked to attend an executive meeting to explain the details, with reasons, for the changing of the accounting procedures. At the meeting I detailed the procedures and with very minor changes it was unanimously agreed that effective immediately these changes could be made.

I then had a meeting with the three trustees to answer any and all questions that they had. They asked what steps I had taken and what conclusions I had reached. I detailed the steps taken to date and told them that I suspected some fraudulent manipulation of the records but was to carry out more detailed investigation by direct correspondence with individual members. They asked me for a direct report to which I answered I would report to the President and the International Representative in a written report which if they wished could be released to the trustees and the membership.

I then proceeded to write three hundred members of the local union requesting that they supply me with the following information:

- (1) The date you last paid your dues prior to August 1, 1970.
- (2) For what months did you pay?
- (3) What is your work permit receipt number for the last dues paid before August 1, 1970?
- (4) Did you pay by cheque or cash?
- (5) Amount paid?
- (6) Any irregularities noted in the last year regarding receipts or cancelled cheques.

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The results of this direct correspondence was disappointing, less than a 50% return, with approximately only 25% of the members who had answered having kept their previous work permit numbers. This step proved to me the difficulty of providing sufficient evidence to substantiate any claim to the bonding company.

At this point I had a meeting with you to review my thoughts on my audit procedures to date. I disclosed that I had reconstructed the method by which I thought funds were misappropriated but I further made clear my thoughts that any further detailed investigation to substantiate the possible recovery of funds from the bonding company was against my advice.

The reasons I believe recovery by bond is impossible is that certain records are missing and the bookkeeping systems in effect at the time were inadequate to substantiate certification of the funds missing. My reconstruction of the probable method of misappropriation was a combination of the documents available, the procedures and records that were changed and the availability of records to the staff at that time in conjunction with the daily procedures carried out by them.

By all the evidence provided the method I believe that was used was that members whose payments were received by cheque were issued receipts from a separate receipt book other than the book currently being used, in particular out of town members paying by cheque. Then when an identical receipt appeared in the regular book that was paid by cash, the receipt was changed by adding "CH" in the upper right hand corner to record payment by cheque. The money was removed and the cheque from the other receipt book was substituted. This meant the daily receipts were deposited and balanced to the total of the receipts issued. At this point nobody could tell the switch had taken place unless a complete comparison was carried out, receipt by receipt to the cheques on hand. This had never been done, only the number of cheques was compared to the number of receipts marked "CH" and, this of course, verified because the receipt had been changed to read "CH".

This conclusion fits all the irregularities detailed previously and provides the logic as to why pages of receipts were missing, cheques were held for weeks until deposited, why out of town members accounts were used and why the irregularity of receipts marked "CH" when actually paid by cash.

As we agreed at the time, because of missing documents and the fact that most carpenters destroy or lose their old work permit cards it was impossible to reconstruct the exact money in total that was misappropriated. I had uncovered in my opinion, the method by which the funds were taken and had stopped all future possible misappropriation by tightening the control over receipts and the flow of monies.

With the apparent need for bonding evidence eliminated I requested from the trustees any areas that they specifically wanted investigated, without disclosing any of my conclusions to that date. They asked that I check into three areas, these being the handling of initiation fees, work permits and the strike fund for the 1969 strike. The trustees also express considerable concern regarding the bond report. To this I answered that they could do the steps I suggest and that is check the records that were available and not worry about the possibility of missing records. This would be covered in my report and I could clarify with Jack Tarbutt President that I would assist them in completing the report.

As you know subsequently when the trustees failed to complete the report you asked me to prepare the report, which I did, and also provided a certification which you then forwarded to head office along with the completed bond report. I would like to note at this time that the six month bond report states that if irregularities are not noted within 3 months after the date of the bond report no recovery is available under the bond

(6)

Before I completely abandoned the possibility of not calculating the total monies misappropriated I decided to check into two alternate methods of calculating the total monies received and compare this to the total monies deposited. I decided the effort in these two areas would possibly give the membership at least a rough approximation of the amount, even if bonding recovery was not possible.

The first method would be to add all the individual ledger sheets for every member because all dues and penalty assessments are recorded in their book. This proved after initial investigation to be fruitless because the individual ledger sheets do not record initiation fees paid, whole or part, or work permit monies received. This was further complicated by the fact that different amounts of initiation fees were in existence over the period under investigation because of special groups initiated and some special circumstances for certain new members.

The second method I investigated was the per capita sheets supplied by head office. This again proved fruitless because all members are kept active even those not paid. Examples would be retired, sick or members who are eventually expelled. It also only lists new members after initiation, therefore all monies received as part payable instalments are not recorded until the month after initiated. A further complication is that the books are kept open for a minimum of three working days after each month end so monies in transit can be recorded in the proper month.

Another complication is that the local keeps three separate bank accounts, each for a specific purpose, but because of shortages in certain funds monies were deposited into accounts other than the proper one. Because of inadequate records being kept this added to the difficulty of reconciling total funds received.

If you refer to the suggested changes detailed in the attached schedule you will note all these difficulties have been eliminated because of complete cross references being provided by the duplicate work permit receipt number being recorded on the individual ledger sheets and on the daily summary sheets.

At this point I decided to continue my investigation of all the aspects of the union where monies were being handled and specifically the ones recommended by the trustees.

The first thing I investigated was the system used to record and accumulate initiation fees. This comprises the following documents: When each person applies for membership a initiation sheet is made up in duplicate. If the prospective member pays any amount of his initial fees he is given a duplicate receipt, therefore recording the actual money received. The payment is then recorded on his initiation sheet. This means at all times the union knows who has applied for membership, when he applied and the instalments he had paid. The prospective member should keep his copy up to date in addition to the duplicate receipts he receives.

This system further informs the proper official when a prospective member is fully paid and therefore eligible for membership or more important if anybody has fallen behind on their commitments therefore the proper letters can be sent out.

Let me emphasize that this system is good but in the past because of the loose controls over receipts, monies could have been properly recorded but never deposited. This is now eliminated because all receipts are kept under lock and key and all used receipts must be accounted for.

✓ Permits in the past were under loose accounting control because of the use of a separate receipt book and there never was an accounting for the numerical sequence of all the receipts issued. As in the case of the initiation fees this is now under proper control because of the revised controls.

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The area of retired members dues was one that was very loosely controlled. In the past to keep retired members recorded with head office work receipts were issued for them and the per capita amounts were paid on their behalf. The work receipts were never mailed out because of the cost involved and the fact that the retired members had no practical need for them. In addition these receipts were issued out of a separate book. To further complicate my investigation of this area most of these receipts were missing after the robberies in July 1970. In the attached schedule I have recommended that no receipts be issued to retired members as it is a simple procedure to include them on the per capita sheets to keep their names active.

I then started an investigation of the strike fund set up for the six months in 1969. In a detailed conversation with you we reviewed the formula by which individual members were assessed throughout the strike. The task of reconciling what should have been paid by each member seemed to be impossible because of the fact that no records are kept for all members, therefore I could not trace each individual's employment during the strike. In addition to this, certain members were paid unemployment insurance benefits and certain members were receiving benefits from the workmen's compensation board. Also some members were working outside the industry and therefore paid a flat weekly assessment.

It was finally agreed that I would work initially with the assumption that all members were properly assessed and to concentrate on the actual flow of monies collected. I then discovered that all the documents concerning the members strike fund assessments were piled up in a corner of the office cabinet and had never formally been turned over to the President or the Financial Secretary.

I then attempted to sort the existing records and found that all duplicate bank deposit slips were missing, that the duplicate receipt books were no in any order or controlled in any way and the only permanent record seemed to be the cards made up for each member. I attempted to sort the receipts into some sort of chronological order by date or by book but after a few hours discovered that this was going to accomplish nothing.

Since a card was supposed to be in existence for all members I decided to use this as the starting point of my investigation. I then carried out the following checks:

- (1) Checked the additions and mathematical accuracy of each card.
- (2) Checked and listed all missing cards and eventually accounted for all cards.
- (3) Checked all cards to ledger books for confirmation that the name tied in with the union number and if any discrepancy occurred this checked with the per capita sheet.
- (4) Checked all union number changes during the period of the strike.
- (5) Added the bank account deposits for the months of the strike and up to the time the strike committee was disbanded.

These checks covered approximately six working days.

I discussed with you at that time the feasibility of communicating directly by mail with a random sampling of members to ask that they inform me of the total amount of strike assessment paid by them. As we agreed, using the previous letter circulation as a guide, this would probably prove fruitless because very few carpenters, a year after the fact, would remember the total assessments paid or exactly what they did throughout the strike period.

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After confirming all the cards were accounted for and all the cards added correctly the end result was a difference of \$4,275.19 between the money actually deposited and the accumulated total on the cards.

I next started an investigation of the carpenters trust fund setup for the collection and distribution of vacation pay. I read the extensive legal documents detailing the formation of the fund and the duties and responsibilities involved. I discovered much initial confusion, that was created by the contractors because they mixed the contributions of the vacation pay and welfare funds. I discovered that the funds received were handled and deposited correctly but the one major area of difficulty was that no records were available to cross check to. I would strongly suggest that it be emphasized to all carpenters the necessity of keeping an accurate independent record of wages in the book provided by the union. This will enable the union and the trustees to substantiate any claims, that may arise at the pay-out dates, for contributions that were never advanced to the union. Since only the carpenter knows precisely week by week where he is employed and for how many hours each week, this adds to the need for the accuracy of the wage book.

Because my initial investigation discovered no weakness in the control of the flow of monies I ended my investigation except to assist the trustees to straighten out the funds that crossed between the vacation pay and welfare funds. An annual audit will provide the complete financial picture of the fund at the funds year end.

I next reviewed all the documents surrounding the welfare fund. I read the agreements with Tomlinson Consulting Services Limited and the original agreement signed between the General Contractors and Local 18. In this case all monies are handled by Tomlinson's. As in the vacation pay some confusion arose because contractors mixed up the payments between funds but this has now been straightened out. An annual audit of the welfare fund will report on the results of Tomlinson's services plus provide the financial statements showing the resulting figures of the fund for the year.

At this time I would like to repeat the importance of the carpenters maintaining their individual wage records since this provides a direct cross reference on welfare contributions made on their behalf.

At this time I personally, with your sanction, contacted individually the officials of the union and the trustees of the union. These being yourself, Jack Tarbutt President, Tom Fenwick Recording Secretary, Charles Guagliano Financial Secretary, Romeo Charbonneau, Danny McGowen and Henry Buck Trustees. In all cases, when told of the areas, not the results of my investigation, they said they thought I had covered all areas necessary.

In the case of trustee Romeo Charbonneau in our first meeting he stated he had sent a telegram to Washington which started the movement to getting my investigation carried out into the union's affairs. I asked Mr. Charbonneau to meet with me to discuss the contents of the telegram he sent which read as follows:

"Request international representative to come to Local 18 Hamilton, to investigate accusation against myself and accomplice by Charles Guagliano Bus. Rep.

Robbery of office occurred July 22, 1970. I and accomplice have been accused of plotting and conducting same to cover the alleged embezzlement of \$3,000.00 from strike fund.

Feel robbery was smoke screen to hide guilty parties maneuvers. Pressed for audit of strike fund at time of handing over funds to office. Was denied this request. The certain executive did not feel this warranted.

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Suggest also research and audit of initiation fees, received and not recorded. Have proof they did not tally with what should be."

Signed: Romeo R. Charbonneau
290 Charlton Ave. West
Hamilton, Ontario.

I discussed the contents of this telegram with Mr. Charbonneau in detail.

I asked him who the accomplice was and to this he refused to answer and said it was unimportant. I asked him when he had been accused of this alleged embezzlement and he stated he was not directly accused but was told by a third party. I asked who the third party was, to which he answered the office secretary Mrs. Hazel Nash. I asked if this supposed accusation was made in front of witnesses and he stated he believed the other office staff were present at the time.

I asked him who he thought were the guilty parties to which he refers in the telegram, he did not answer this. I asked to whom and how he pressed for an audit of the strike fund. He answered that he mentioned it as at February 28, 1970 to Mr. Guagliano who did not think an audit was necessary. I asked if he ever pressed in writing or verbally to anyone else for an audit and he said he couldn't remember.

I asked Mr. Charbonneau to produce the proof he states that he has that initiation fees were not recorded, to this he refused. He said he would provide the evidence after my report was finalized. I reminded him of the instructions from the international representative that all trustees were to fully cooperate with me in the course of my investigation. He still refused to produce the proof.

I then telegraphed on November 20th, 1970 Mr. Stefanovitch that Mr. Charbonneau would not provide the information that he states he has. I asked him to advise me, but to date I have received no response to my telegram.

I followed up my conversation with Mr. Charbonneau by asking all the office staff if they heard Mrs. Nash being told by Mr. Guagliano of any accusations against Mr. Charbonneau. They all answered that they had not heard any accusations.

I then asked Mr. Guagliano if he did make these accusations concerning the alleged embezzlement of \$3,000.00 and he said no. I then further questioned Mr. Guagliano concerning the strike fund. He answered that he had never received the strike fund records or any formal requests for an audit, but one day found the strike funds records piled up in the bottom drawer of his office cabinet. Mr. Tom Fernwick said that the only thing he had ever heard about an audit was a verbal comment that an audit was to be carried out by the trustees of the strike fund themselves on their own work.

At this point since no evidence was forthcoming to substantiate anything in Mr. Charbonneau's telegram I decided to complete my investigation and ask that he produce whatever proof he has after I file my report.

As I am finished with my detailed investigation I will now detail my general thoughts on the information I was able to compile. In the constitution and by-laws of the United Brotherhood, little advice is given as to how to keep proper records other than the referral to a day book. As I have previously mentioned the system in existence at the start of my investigation lacked in basic accounting controls but in principal is far superior to the day book recommended. I would advise the local 18 to suggest to head office that they produce a booklet or brochure advising unions on the basic principals of why and more importantly how to set up daily accounting procedures with proper controls.

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The existing system of duplicate prenumbered receipts has been ratified by head office through correspondence by Mr. Guagliano when he first took office. This revised system was further confirmed directly by me by telephone with Mr. Livingston of head office in Washington.

In the past, the trustees job has been to check the accuracy of the entries made in the records, checking to see if members were charged for penalty assessment, etc. I would strongly recommend that all trustees in the future completely understand the principals and controls employed in the new installed systems and spend sufficient of their time making sure that these principals and controls are adhered to. If the controls are strictly enforced then little accounting errors will quickly ratify themselves.

My conclusion regarding the possible misappropriation of funds in the office is that it is impossible to tell how long and how much specifically is missing. The misappropriation was carried out by a member of the office staff but because of the missing documents and the difficulties with too many people handling records it is not possible for me to definitely state who the guilty party was.

In the area of the strike fund, even though a major difference was recorded, the condition the records are in it would be impossible to state if this difference is accurate. All I can state is that from the records I was able to compile and check, the mathematical difference I arrived at was \$4,275.19. This situation is a perfect example as to why all special funds must be governed by the same rules and controls I have installed in the office.

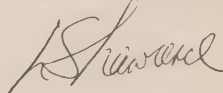
At this time I would like to state that this investigation covered approximately four months in total. The length of time was unfortunately unavoidable because of the need to wait for the answers to correspondence plus the need to absorb the answers and solutions arrived at to reach the proper conclusions. This investigation was carried out to supply the membership with information concerning all the areas of the union which concern the handling of money. This was not a traditional year end financial audit but a special investigation, therefore the need for special checks and audit procedures.

In conclusion I would say that if the current systems I have installed are adhered to and the trustees follow my recommendations, no future problems should be anticipated.

If any questions should arise concerning any areas of my investigation and subsequent conclusions, please do not hesitate to call on me at any time.

I thank you for the opportunity of carrying out this extensive investigation and I am sure it will prove to be beneficial to all parties concerned.

Yours very truly,



L. S. LAWRENCE,
Chartered Accountant

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APPENDIX 81 (exhibit 1022)

Report by William Stefanovitch on Local 18

EXHIBIT NO. 1022
APPENDIX NO. 81

United Brotherhood of Carpenters and Joiners of America

OFFICE
101 CONSTITUTION AVE., N.W.
WASHINGTON, D. C. 20001

WM. STEFANOVITCH
MEMBER GENERAL EXECUTIVE BOARD
NINTH DISTRICT

HOME ADDRESS
2418 CENTRAL AVE.
WINDSOR, ONTARIO
CANADA

August 10, 1971

RECEIVED

AUG 16 1971

PRESIDENT'S OFFICE

Mr. Tom Fenwick, Rec. Sec.
Local Union #18,
82 Ferguson Ave. N.
Hamilton, Ontario.

Dear Sir and Brother :

This letter is to be considered as the letter of instructions that the writer made reference to during the course of the meeting recently held with officers of Local #18.

To begin with the officers and members of Local #16 must from here on in, be more vigilant in seeing to it that the constitution of the Brotherhood be carried out. I am making at this time particular reference to the fact that Local #18 for a number of years did not have their books and records audited by a certified Public Accountant as called for by Section 40 (c).

It was only last year after a break-in of the officers of Local #16 occurred, were steps finally taken to have the books and records of Local #18 audited by a certified public accountant, and as we all know the Certified Public Accountant was unable to perform a thorough and proper audit due to certain receipts, papers and book pages were found to be missing.

This auditor that the Local has engaged has established a new bookkeeping system which from all accounts seems to be operating efficiently. The Local is advised that to maintain this efficiency, this bookkeeping system is not to be changed unless recommended by the Certified Public Accountant and approved by the membership.

As to the Trustees they are advised that they shall perform their duties as spelled out in the constitution. They are particularly advised to see to it when performing an audit that all books, records, receipts, papers, etc. are placed at their disposal so that a thorough and proper audit is performed.

United Brotherhood of Carpenters and Joiners of America

OFFICE
101 CONSTITUTION AVE., N.W.
WASHINGTON, D. C. 20001

WM. STEFANOVITCH
MEMBER GENERAL EXECUTIVE BOARD
NINTH DISTRICT

HOME ADDRESS
2418 CENTRAL AVE.
WINDSOR, ONTARIO
CANADA



Page 2.

August 10, 1971

The Trustees are to audit the books of all accounts held by the Local and to also audit all books of persons collecting funds.

The Trustees shall inform the Local in writing the results of their audit; they shall also make a comparison of their audit and that of the Certified Public Accountant and shall in writing advise the Local the results of the comparison so made.

The financial secretary of the Local is advised to see to it that the numerical and financial standing report of the Local is made each month to the membership as called for in Section 36 (D) of the Constitution.

I draw to the attention of the Treasurer of the Local, Section 37 (B); wherein it states that at the first meeting of each quarter a report is to be made to the membership for the preceding quarter of all monies received and paid out.

All officers are advised to read the constitution as to their duties and are to carry out these duties to the best of their ability. If difficulty is experienced in the carrying out of these duties due to lack of co-operation, or refusal to co-operate by other officers, then the General President is to be immediately informed.

The officers and members of Local #18 are further advised that failure to comply with the constitution, particularly where it relates to financial matters, could at some future date cause difficulties in attempting to collect from the Bonding Company.

If at some future date, clarification or intent as to the matters herein are required, please contact the undersigned.

Fraternally yours,

WS:rm

c.c. M. A. Hutcheson, Gen.Pres. ✓

J. Tarbutt, Pres.L.U.#18

H. Buck, Trustee L.U.#18

D. McGowan, " " "

R. Charbonneau, " " "

W.S.
WM. STEFANOVITCH

APPENDIX 82 (exhibit 798)

Text of letter from Joseph Power to Charles Irvine re trusteeship of Local

117



INTERNATIONAL ASSOCIATION of the UNITED STATES and CANADA

OFFICIALS OF THE
AMERICAN FEDERATION OF LABORS AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS
CANADIAN LABOUR COUNCIL
BUREAU OF CONSTRUCTION
TRADE DEPARTMENT
UNITED LABOR AND SERVICE
TRADE DEPARTMENT
METAL TRADE DEPARTMENT
BUILDING TRADES DEPARTMENT

COPIATIVE PLASTERERS'
AND CEMENT MASONRY

Office of General President
JOSEPH T. POWER
1125 Seventeenth Street, N.W., Washington, D.C. 20036
202 301-6530

December 22, 1971

JOSEPH T. POWER
General President
JOHN J. HAUCK
General Secretary-Treasurer
EDWARD J. LEONARD
General President Emeritus

GENERAL EXECUTIVE BOARD
JOSEPH T. POWER
Chairman
JOHN J. HAUCK
Secretary
HELVIN H. ROOTS
Executive Vice President
WALTER EVANDER
Vice President
HARRY D. MARTINEZ
Vice President
PAT J. CHRISTIANO
Vice President
CHAS. W. IRVINE
Vice President

Mr. Charles W. Irvine, Vice President
O. P. & C. M. I. A., and International Trustee
over the Affairs of Local No. 117
521 Sutherland Drive
Toronto 350, Ontario, Canada

THIS IS EXHIBIT - B REFERRED TO IN THE
AFFIDAVIT OF Jose Martinez
SWORN BEFORE ME THIS 28th DAY OF
June 1972

B. C. HAWKINS

A Commissioner, etc.

Dear Sir and Brother:

In accordance with the provisions of Section 13(d) of the International Constitution, adopted by the 41st Convention of the O&CMIA held August 14th to August 18th, 1967, San Francisco, California, I have given careful consideration and study to the Report and Recommendations of Hearing Officers William McMynn and Anthony Mariano in the hearing of charges preferred by you against Local Union No. 117 of Toronto, Ontario, Canada while you were acting in the capacity of International Trustee over the affairs of Local 117 by my appointment of you under the provisions of Section 13(a) of the International Constitution prior to the hearing, due to emergency situation existing in Local 117 which caused me to place Local 117 under Trusteeship pending the result of a hearing of your charges.

The Hearing was held on November 22nd and November 23rd, 1971 with a court reporter transcribing the proceedings. It was my review of the transcript of the Hearing more than the recommendations of the Hearing Officers which led me to reach the decisions I have made and which you are instructed to put into effect.

Every voluntary organization has the right to exercise a measure of control over its members and subordinate bodies and to discipline them for infractions of rules adopted by Conventions of the parent organization or by the subordinate body with the approval of the parent body. The rights of a parent organization may be enforced by threat of expulsion of members or revocation of Charters of subordinate bodies. Expulsion is a serious affair and so is the revocation of Charters for it can radically limit a person's opportunity to earn a living in his chosen field. That being the case, hearings should be handled with great attention to everything that might influence action or decision. However, any tendency to ignore or soft-pedal that which produces injury to others or interferes with their rights by attempts

FEB 8 1972

Mr. Charles W. Irvine

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December 22, 1971

to impose the will of a few upon the many may be worse. As an International Union, we have a responsibility to all of our Subordinate Local Unions and to their members to see that the rules are respected and observed, and to discipline those who show disrespect, lack of decorum and a tendency to disrupt orderly procedures.

As the General President of the OP&CMIA, I have an enduring faith in the ability of our Local Unions and their members to govern themselves under the guidance and protection of the International Association when the International Association shows a willingness to promptly and effectively deal with those who would interfere, intimidate or otherwise prevent the free exercise of the will of the majority by actions that discourage the attendance at meetings by a majority of the members and the orderly transaction of business willed by the majority. It is because of this abiding faith and conviction that I have framed my decisions in a manner that I feel confident will enable Local Union No. 117 to weather a period of necessary transition from the current situation to that of once again becoming a Local Union able to govern itself and to discipline those who would attempt to initiate or introduce actions that would adversely affect the rights and wishes of the majority.

My decisions are as follows:

1. I find Local No. 117 guilty of the charges you proffered because of their inability to prevent disturbances at their meetings or to impose discipline upon those who caused the disturbances, and because of their inability or unwillingness to prevent the meeting of groups of members and non-members jointly to discuss and transact business including the election of so-called officers that should only have been transacted at official meetings of Local No. 117.

I do not deny the right of members to caucus as a group or to discuss problems at such caucuses, but they have no right to finalize or put into effect any of their actions which should first be taken up by a meeting of the duly chartered Local Union, conducted by Officers recognized as such by the International Association.

2. To impose a Probationary Trusteeship with you as the Trustee for a period expiring May 31, 1972 if no incidents occur that would cause me to consider holding a Hearing for the imposition of a Trusteeship for a period of at least an additional six months but not more than eighteen months. The Probationary period of Trusteeship should be utilized by the membership of Local No. 117 in doing those things which are necessary to attain normalcy by May 31, 1972.

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Mr. Charles W. Irvine

- 3 -

December 22, 1971

3. If no significantly disturbing incidents or violations of the International Constitution, or of the rules I establish to govern the membership of Local 117 during International Trusteeship, occur or appear to be imminent during the period of the Probationary Trusteeship, you are instructed to take the necessary steps to restore Local Autonomy to Local No. 117 on or promptly after May 31, 1972 and to also set in motion all things necessary to conduct the nomination and election of Officers for the Local Union from among the membership eligible to be candidates for Office, with eligible and qualified membership participating in the nomination and election.

h. If circumstances warrant holding an election promptly after May 31, 1972, you will be guided by the rules I hereby establish for the purpose of determining the eligibility of candidates for office and the eligibility of members to nominate a candidate and to vote for the candidate of their choice.

(a) No member may be nominated who has not attained at least six months membership in Local 117.

(b) No member may be nominated who was not in good standing (owing not more than two months dues) on January 1, 1972.

(c) No member may be nominated who failed to continue in good standing (owing not more than two months dues) from January 1, 1972 through the month in which nominations are made.

(d) No member may be nominated who has, after a fair and impartial trial been found guilty of violating Sections 12(m) (1) (2) (3) (4) (5) (6), Section 68 pertaining to Outside Meetings, interfering with the legal duties of the Officers of the Union or interfering with the legal or contractual obligations of the Union, Section 69 pertaining to making, uttering or publishing false material of any kind that vilifies or impugns the honesty or character of any Officer of a Local Union or of the International Association, or of Section 140 as it pertains to the Oath of Obligation for Canadian members of the OP&QMIA, which Sections are part of the International Constitution adopted by the 41st Convention of the OP&QMIA held in 1967. This curtailment of the right to be nominated shall prevail even though the violation of the section or sections outlined occurred prior to, during, or subsequent to the imposition of the Probationary Period of Trusteeship.

(e) No member may nominate a candidate unless he has been a member of Local 117 for at least six months at the time of his making a nomination.

Mr. Charles W. Irvine

- 4 -

December 22, 1971

(f) No member may nominate a candidate unless he was in good standing (owing not more than two months dues) ten days prior to and at the time of making the nomination.

(g) No member may vote for a candidate unless he was in good standing (owing not more than two months dues) ten days prior to and at the time of casting a vote.

5. If circumstances warrant holding an election promptly after May 31, 1972, I shall appoint an Election Committee of International Association Officers or Representatives to conduct the nominations and election and to decide any question raised as to the eligibility and qualifications of members to nominate, to be nominated or to vote. You will be instructed to prepare and have available at both the nomination meeting and the election a list of the members of Local 117 who are eligible at that time to nominate, be nominated or to vote, and to also have at the same time, the membership ledgers from which you prepared the list. The nominations and election will be conducted in accordance with the minimum requirements of the International Constitution, except as I have indicated in the rules I established above. If there is any conflict between the two, the above established rules shall prevail.

6. You are instructed to submit a list of eligible and qualified members of Local 117 for my consideration as appointments to office in Local 117 to assist you in your duties as Trustee during the Probationary Period. You will abide by the provisions of the International Constitution governing the duties of a Trustee appointed to supervise Local Unions by the General President, and you will consult with me on any matter not specifically provided for by these decisions or by the International Constitution.

7. You are instructed to notify all members of Local 117 who currently owe more than six months dues that they must, by February 15, 1972, pay up their dues to within six months or be subject to being dropped from the rolls.

8. You are instructed to immediately inform the employers of the membership of Local 117 that you are desirous of meeting with them, accompanied by a Committee, for the purpose of informing them of my determination to have Local 117 succeed in returning to normalcy and to discipline all who would prevent such return, and you are also to request the opening of negotiations for an appropriate collective bargaining agreement with the employers that would tend to stabilize the wages and conditions of employment of our members who work at that part of our industry that has been recognized by this International Association as being the work jurisdiction of the members of Local 117.

374 Report on the building industry

Mr. Charles W. Irvine

- 5 -

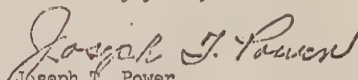
December 22, 1971

9. You are instructed to take the necessary steps to have Local 117 become affiliated with the Toronto Building and Construction Trades Council and to have that body recognize and respect the sole right of the OP&CMIA to represent Plasterers in the Toronto area. In the event of your encountering any difficulty in carrying out this part of my instructions you will immediately inform me in detail as to the difficulty.

10. In the event you find your duties as Trustee over Local 117 cause you to curtail to a large extent your other duties as a Vice President of the OP&CMIA feel free to so inform me and I shall take steps to have you receive assistance in the performance of your duties either as a Trustee or in your regular duties.

Needless to say, I am relying upon your demonstrated ability and knowledge of the troubles that have infested Local 117 to eventually bring about a situation whereby Local 117 will be able to take its rightful place among our family of Local Unions that function as a Local Union should, and gain the respect and admiration of all organized labor by overcoming all things that have caused us to exercise Trusteeship over Local 117.

Fraternally yours,


Joseph T. Power
General President



JTP:mmm

cc: General Secretary-Treasurer John J. Hauck
International Representative William E. McMynn
International Representative Anthony Mariano
Business Manager Angelo Burigana, Local 117 ✓

APPENDIX 83 (exhibit 818)

Text of letter from W.E. McMynn and Anthony Mariano to Joseph Power re trusteeship of Local 117



INTERNATIONAL ASSOCIATION of the UNITED STATES and CANADA

AFFILIATED WITH
 AMERICAN FEDERATION OF LABOR AND
 CONGRESS OF INDUSTRIAL ORGANIZATIONS
 BUILDING AND CONSTRUCTION
 TRADER DEPARTMENT
 UNION LABEL AND SERVICE
 TRADER DEPARTMENT
 METAL TRADER DEPARTMENT
 MARITIME TRADER DEPARTMENT

OPERATIVE PLASTERERS'
and CEMENT MASONS'

WILLIAM E. MCMYNN
 INTERNATIONAL REPRESENTATIVE
 649 WEST 52ND AVENUE
 VANCOUVER 14, B.C., CANADA

JOSEPH T. POWER
 General President
 JOHN J. HAUCK
 General Secretary-Treasurer
 EDWARD J. LEONARD
 General President Emeritus

GENERAL EXECUTIVE BOARD
 JOSEPH T. POWER
 Chairman
 JOHN J. HAUCK
 Secretary
 MELVIN H. ROOTS
 Executive Vice President
 WARNER SEVANDER
 Vice President
 HARRY D. MARTINEZ
 Vice President
 PAT J. CHRISTIANO
 Vice President
 CHAS. W. IRVINE
 Vice President

November 24, 1971

Mr. Joseph T. Power
 General President
 O.P. & C.M.I.A.
 1125 17th St., N.W.
 Washington, D.C. 20036

Dear Sir and Brother:

In respect to your letter of November 5, 1971
 appointing myself and International Representative
 Anthony Mariano to act as Hearing Officers on charges
 filed against Local No. 117 of Toronto, Ontario,
 Canada, by Vice President Charles W. Irvine, please be
 advised that we have, to the best of our ability,
 complied with your request.

Enclosed please find a copy of a brief plus
 signatures, plus a sample envelope allegedly containing
 dues payments which were not accepted by Local 117. A
 transcript of the Hearing which was held over a period
 of two days - November 22 and November 23, 1971, will
 follow.

We tried to be as fair and impartial as we
 possibly could in conducting this Hearing. The first
 problem that we were faced with on the morning of the
 Hearing was a request from Vice President Irvine to have
 his Legal Counsel, Mr. Robin Cumine, attend the actual
 Hearing. It was my decision, based on past practices
 as I knew them, that I could not comply with this request.
 After consultation with International Representative
 A. Mariano, he concurred with my ruling and we so informed
 the lawyer and Vice President Irvine. It should be
 noted here that the lawyer agreed with this decision,
 stating that, "If this is your past practice, then by
 all means - I agree with your decision."

Mr. Joseph T. Lower

- 2 -

November 24, 1971

The next problem that developed, prior to the opening of this Hearing, was the arrival at the Hearing room of what International Representative Mariano and myself conservatively estimated to be 250 persons representing themselves as members of Local 117, requesting permission to be heard and allowed to present a brief which they believed was relative to the matters being presented to the Hearing Officers. It was obviously impossible to have all these persons attend the Hearing, for lack of space if for no other reason. I advised them that if they were in fact members of Local 117, then they could select from amongst themselves six persons who could attend the Hearing and present their brief on behalf of the whole group. It should be noted here that this large group was well controlled and able to be controlled by the six individuals who were selected to represent them. At this time I asked Brother Angelo Burigana, Business Manager of Local 117, if these persons were in fact members of Local 117. He left me with the impression that they, as well as the men with them, were in fact members of Local 117. This group of men did select six of their members and we invited them to sit in on this Hearing and present their brief. Vice President Irvine did not express any objection to having the brief heard. He asked that the brief be heard before he started.

We were now faced with the problem of a second court reporter showing up. Vice President Irvine informed Brother Mariano and myself that he had arranged for this person to be here. This was an unfortunate thing to happen but I advised Vice President C. W. Irvine that, acting under the instructions of your letter of November 5, 1971, I had arranged (through International Representative Mariano) to have the Hearing properly attended by a court reporter and transcribed and that the court reporter was now here and she was prepared to go to work and therefore we would stay with that person. I asked that an apology be made to the second court reporter and advised her that her services would not be required.

Immediately prior to the opening of the Hearing, upon advising Brother Angelo Burigana that I was about to proceed, I was surprised to have Burigana indicate to me that he would not be at the Hearing.

Mr. Joseph T. Power

- 3 -

November 24, 1971

We opened the Hearing with six Local 117 members, International Representative Mariano, Vice President C. W. Irvine and myself present, and, of course, the court reporter. The transcript takes over from there. I had a small tape recorder with me and taped most of the first day's proceedings with the exception of the reading of the charges and the brief presented by Local 117 members. This tape has enabled International Representative Mariano and I to review the events of the first day's proceedings as they developed at the actual Hearing.

At approximately 11:00 a.m., I called a recess in order to do some photostat work and also to discuss with Vice President Irvine, off the record, whether or not he wished to proceed.

While International Representative Mariano was photocopying the signatures on the back of the last page of copies of Local 117 members' brief, I spoke to Vice President Irvine and he informed me that he was too sick to carry on with the Hearing. I advised Brother Mariano of this development and then we both went back to one of the offices where the Vice President was in conversation with Burigana and someone else. I asked Vice President Irvine when he felt he would be able to continue with the Hearing. He indicated to me that he did not know. I advised him, therefore, that I would re-open the Hearing at 10:00 a.m. the next morning and his answer was, "Don't hold your breath waiting for me."

I then re-opened the meeting and advised the six Local 117 people that the Hearing was being postponed until tomorrow morning at 10:00 a.m. due to Vice President Irvine not being well.

International Representative Mariano and I arrived at the Hearing room at 9:45 a.m., Tuesday, in order to continue the Hearing at 10:00 a.m. The court reporter and the same six Local 117 members were there ready to proceed. By 10:00 a.m. there was still no evidence of Vice President Irvine or Brother Burigana being in attendance. I went out to the outer offices and found Burigana and asked him if he was coming into the Hearing and asked where Vice President Irvine was. He told me he was not coming into the Hearing and if I wanted to, I could call "Charlie" at home. I went back to the Hearing room, got the copy of the letter that you sent to Burigana on November 5, 1971, and requested

Mr. Joseph T. Power

- 4 -

November 24, 1971

Brother Mariano to accompany me back to Burigana's office. In the company of Anthony Mariano, I asked Burigana if he had received your letter dated November 5, 1971. He admitted that he had. I asked him if he read the last sentence in that letter - he said that he had - I then advised him that I was your representative at this Hearing and told him I wanted him at that Hearing at 10:00 a.m. He indicated that he would not sit in the room with the other six Local 117 members and he would not come in. He then told me that you had apparently called the office this morning, at about 9:00 a.m. and asked for me and also indicated that you had spoken to Vice President Irvine. I then called Vice President Irvine at home. I asked him if he was coming in and he said "no." I asked him when he could come in and he said he did not know.

I then advised the six Local 117 members and the court reporter that I would hold off opening the Hearing for 20 minutes in case I was able to contact you.

At about 10:50 a.m., after consultation with Anthony Mariano, I re-opened the Hearing and advised the six Local 117 members that I was not going to continue the Hearing - the reason being that Vice President Irvine was not in attendance.

The contents of this report are as Anthony Mariano and I actually saw it. We endeavoured to be as fair as we possibly could to all parties concerned and conscientiously attempted to comply with your directive as outlined in your letter to me dated November 5, 1971. When we were unable to get through to you for further instructions, we simply continued to act to the best of our abilities as per your instructions stated in the letter of November 5, 1971.

Recommendations

We have reviewed the charges by Vice President Irvine and the brief presented by the members of Local 117.

Mr. Joseph T. Power

- 5 -

November 24, 1971

At no time prior to the Hearing, during the Hearing, or after the Hearing, was there any evidence refuting the fact that the approximately 250 Local 117 members at the location of the Hearing were any minority group, nor did we at any time see any evidence of any majority group prepared to challenge the estimated 250 members of Local 117 present (purported to be the minority group) at the Hearing and requesting to be heard. There is no doubt in our minds but that the six members of Local 117 who were permitted into the hearing room did in actual fact represent the estimated 250 persons physically present in the hallway of the building.

It had been our intention, upon continuation of the Hearing, to question the presenters of the brief on certain aspects of the brief; such as, who was the person or persons with authority to call the nominal meeting, which was called October 3, 1971, etc.

In our endeavours to be fair and impartial in respect to this Hearing, we felt that it would be unfair and unwise to question the six presenters of the brief in the absence of Vice President Irvine and Brother Angelo Burigana, Business Manager of Local 117.

At no time did we see or hear any evidence that would indicate that any of the 250 persons present wanted to be anything other than members of the O.P. & C.M.I.A. In actual fact, there are about 145 signatures on the back of the brief which Anthony Mariano and I interpret as pledging loyalty to the O.P. & C.M.I.A., and due to the time limits involved, this was no mean feat in itself.

Nor did we see any factual evidence that would cause us to recommend any permanent trusteeship over this Local Union. Although we requested the Vice President if the Local was under temporary trusteeship, we were not presented with any factual evidence that would indicate that it was. However, if the Local is under temporary trusteeship now, or if it is not under temporary trusteeship, then we recommend that it be placed under temporary trusteeship for a period of time in order to proceed with the following:

Mr. Joseph T. Power

- 6 -

November 24, 1971

(1) We recommend that a temporary impartial trustee be appointed in order to conduct a proper nomination and election of officers for Local 117, and that he supervise this election and ensure that it is conducted in accordance with the International Constitution with the understanding that he be authorized to determine the standing of the individual members, to see either eligible to stand for nomination and election and/or to vote.

(2) To facilitate the above, this trustee should have the right to determine a member's eligibility to either vote or stand for office. We make this comment because we have witnessed evidence that would indicate that some members of Local 117 had endeavoured to pay their dues to Local 117 but said dues had been refused.

(3) We recommend further that any temporary trusteeship be terminated as rapidly as possible and that the administration of Local 117's affairs be left in the hands of the newly elected officers.

(4) We believe that they are capable of conducting their affairs in a proper and acceptable manner within the confines of our International Constitution. Both Hearing Officers were impressed with the manner in which Local 117's brief was presented; we were impressed with the manner in which the six Local 117 members conducted themselves and also the manner in which they were able to control the 250 some odd Masterers out in the hall of the building and finally, we are prepared to accept their pledge of loyalty to no other organization than the O.P. & C.M.I.A. and that given the opportunity they felt that they could bring the Masterers that had left Local 117 back into the organization.

(5) On November 5, 1971, you sent a registered letter to Brother Angelo Barigana, Business Manager of Local 117. The last sentence of that letter directed to him directed him to present himself before the Hearing Officers and requested him to bring all evidence and witnesses in answer to the attached charges.

Mr. Joseph T. Power

- 7 -

November 24, 1971

This request on your part was not complied with. This lack of co-operation on Burigana's part made it even more difficult for International Representative Mariano and I to conduct a Hearing, as per your directives to us. We therefore recommend that you consider disciplinary action against this Brother.

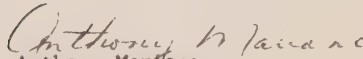
Copy of the court reporter's transcript will be forwarded to you immediately upon our receiving same from Angus Stonehouse Company Limited Shorthand Reporters.

With respect to the charges laid by Vice President Irvine, we note that in some instances the charges and the brief presented were, in part, in agreement with one another. However, we feel that as Vice President Irvine was apparently unable to attend the continuation of the Hearing and therefore was not able to elaborate upon the charges, we are not in a position to pass judgment on them.

Yours fraternally,



W. E. McMyne
Hearing Officer - Chairman



Anthony Mariano
Hearing Officer

Enclosures

c.c.: Brother John J. Hauck

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APPENDIX 84 (exhibit 813)

Letter from Attilio Capodilupo to Joseph Power

May 3rd, 1972.

Mr. Joseph T. Power,
General President,
Operative Plasterers' and Cement Masons',
International Association of the
United States and Canada,
1125 17th St. N. W.,
Washington D.C., 20018,
U.S.A.

Dear Mr. President:

I am writing to you as the member of Local 117 who was elected President at the meeting on November 7, 1971, on behalf of myself and the members of Local 117 urgently requesting you to come to Toronto just as soon as it is possible, to meet with the members of Local 117 to discuss our internal problems.

Please come to meet with us, as otherwise our only alternative will be to bring an action in the Supreme Court of Ontario in an effort to resolve our problems. If necessary we are determined to do that, but we would appreciate an opportunity to meet with you personally to see if our affairs can be straightened out without going to Court.

We urge you to come. Please let us hear from you not later than May 15th next.

Sincerely,

APPENDIX 85 (exhibit 814)

Letter from Joseph Power to Attilio Capodilupo



INTERNATIONAL ASSOCIATION of the UNITED STATES and CANADA

AFFILIATED WITH
 AMERICAN FEDERATION OF LABOR AND
 COUNCILS OF INDUSTRIAL ORGANIZATIONS
 CANADIAN LEGION COUNCILS
 BUILDING AND CONSTRUCTION
 TRADES DEPARTMENT
 UNION LABEL AND SERVICE
 TRADES DEPARTMENT
 METAL TRADES DEPARTMENT
 MACHINING TRADES DEPARTMENT

OPERATIVE PLASTERERS'
and CEMENT MASONS'

Office of General President
 JOSEPH T. POWER
 1125 Seventeenth Street, N.W., Washington, D.C. 20036
 202 393-6568

May 22, 1972

JOSEPH T. POWER
General President
 JOHN J. HAUCK
General Secretary-Treasurer
 EDWARD J. LEONARD
General President Emeritus

GENERAL EXECUTIVE BOARD
 JOSEPH T. POWER
Chairman
 JOHN J. HAUCK
Secretary
 MELVIN H. ROOTS
Executive Vice President
 WARNER SEVANDER
Vice President
 HARRY D. MARTINEZ
Vice President
 PAT J. CHRISTIANO
Vice President
 CHAS. W. IRVINE
Vice President

Mr. Attilio Capodilupo
 2615 Eglinton Avenue, West
 Toronto, Ontario, Canada

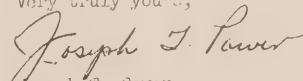
Dear Sir:

This will acknowledge receipt of your letter of May 3, 1972, which
 was received in this office on May 3, 1972. I regret that I have
 not been in a position to answer your letter sooner; however, I
 have been away from the office on other matters affecting this
 International Association.

Your letter also contained a list of names of members of Local 117.
 I have reviewed the records in this office regarding the list of
 names you submitted and less than 20 out of 200 are members in good
 standing. Several of the names submitted are not even members of
 this International Association. The records also indicate that you
 are not a member of the Local in good standing; therefore, not en-
 titled to a voice or vote in the affairs of the Local Union.

It is always my desire to assist our Local Unions; however, a
 request for assistance must come from a member in good standing.

Very truly yours,


 Joseph T. Power
 General President

cc: [redacted]

cc: Joseph J. Seaver, Jr.-Treasurer John J. Hauck



APPENDIX 86 (exhibit 800)

Report of the election of Avoledo

~~Interim Report~~ November 7, 1971

The undersigned members of the
Election Committee report the
~~following~~ results of the Elections
held Sunday, November 7, 1971
as follows

President Capo dilapo

Vice President Berton

Financial Secretary Minella

Business Manager Avoledo

Business Agents Maraschin
Monson

Members Executive Board
Arduini
Baltista
Calderaro
Calleran
Manias
Rosciello

A Final Report will
follow with
detailed results.

~~José Martinez~~
~~Committee Officers~~
~~[Signature]~~
~~Amigelo Regoroso~~

APPENDIX 87 (exhibit 784)

Memorandum of accounts by Angelo Burigana

Angelo Burigana Money owing from Nov 20/71
to and including all June 1972

Cor Es 8 Months Nov. 71 to June 72	
at \$ 250.00 Per Month	\$ 2,000.00
wages 10 weeks, from last of November to	
all January 1972 at \$173.05 Per week	1,730.50
Oct. work as from Nov. 20/71 to	
all June 1972 at \$ 20.00 Per Saturday	600.00
Vacation Pay to June 1972 at 6%	673.92
Total	5,004.42 -
less Cash received	2,462.20
Total owing	\$ 2,542.22
A. Burigana	

386 Report on the building industry

APPENDIX 88 (exhibit 917) Criminal record of Bruno Zanini

ALL CORRESPONDENCE TO BE ADDRESSED -

THE COMMISSIONER
ROYAL CANADIAN MOUNTED POLICE
BOX 8885
OTTAWA, CANADA
K1G 3M8



IDENTIFICATION
- A NATIONAL POLICE SERVICE -

1 AUG 73

CONFIDENTIAL
RECORD

W.M. Harasym

W.M. HARASYM, C/SUPV.
ASST. DIRECTOR-IDENTIFICATION.

F.P.S. NO. 298539

DATE AND PLACE OF SENTENCE	CHARGES	DISPOSITION	NAME AND NUMBER
1933 - NOV. 24 TORONTO, ONT. (JUV. COURT).	THEFT	SUPERVISION R.C. BIG BROTHERS	BRUNO ZANNI.
1934 - JUNE 23 TORONTO, ONT. (JUV. COURT).	B.E. & THEFT	SUPERVISION R.C. BIG BROTHERS	
1934 - AUG. 3 TORONTO, ONT. (JUV. COURT).	B.E. & THEFT	SUPERVISION R.C. BIG BROTHERS	
1935 - JUNI 8 TORONTO, ONT. (JUV. COURT).	DAMAGE TO PROPERTY	ADJOURNED SINE DIE	
1936 - JAN. 9 TORONTO, ONT. (JUV. COURT).	THEFT	SUPERVISION OF COURT	
1936 - FEB. 15 LONDON, ONT. (JUV. COURT).	VAGRANCY	SENT TO OBSERVATION HOME	BRUNO ZANINE, PD #1991.
1936 - MARCH 5 LONDON, ONT. (JUV. COURT).	VAGRANCY	TO CUSTODY OF BROTHER & REPORT TO JUV. OFFICER	
1936 - AUG. 18 TORONTO, ONT. (JUV. COURT).	THEFT	ADJOURNED SINE DIE - CONTINUED SUPERVISION COURT.	BRUNO ZANNI.
1936 - DEC. 8 TORONTO, ONT. (JUV. COURT).	THEFT	ADJOURNED SINE DIE -	
1938 - NOV. 21 TORONTO, ONT.	(1) B.E. & THEFT (2 CHGS.) (2) THEFT	(1-2) 9 MOS. DEF. & 3 MOS. INDEF. EACH CHG. CONC.	BRUNO ZANINI, PD #1361/38. BRUNO ZANANI, O.R. GUELPH #50731.
1940 - FEB. 27 TORONTO, ONT.	B.E. & THEFT	2 YRS. LESS 1 DAY	BRUNO ZANINI, O.R. GUELPH #52334.
1942 - MARCH 20 TORONTO, ONT.	BREAK & ENTER	DISCHARGED	JAIL #6721.
1943 - DEC. 1 TORONTO, ONT.	BREAK & ENTER	BAILED	JAIL #4986.

CONT'D PAGE 2..

ALL CORRESPONDENCE TO BE ADDRESSED:-

THE COMMISSIONER
ROYAL CANADIAN MOUNTED POLICE
BOX 8885
OTTAWA, CANADA
K1G 3M8



IDENTIFICATION
- A NATIONAL POLICE SERVICE -

1 AUG 73

CONFIDENTIAL
RECORD

W. M. Harasym

W. M. HARASYM, C/SUPT.
ASST. DIRECTOR - IDENTIFICATION.

P.S. NO. 798579

- 2 -

DATE AND PLACE OF SENTENCE	CHARGES	DISPOSITION	NAME AND NUMBER
1944 - MARCH 16 TORONTO, ONT.	(1) BREAK & ENTER (2) ESCAPE CUSTODY	(1) 3 YRS. (2) 1 YR. CONC.	BRUNO ZANINI, KINGSTON PEN. #7637.
1946 - JULY 23		RELEASED ON OR ABOUT THIS DATE ON EXPIRATION OF SENT.	
1947 - OCT. 3 TORONTO, ONT.	RECEIVING	2 YRS. FROM SEPT. 29/47	KINGSTON PEN. #9226.
1949 - MAY 25		RELEASED ON OR ABOUT THIS DATE ON EXPIRATION OF SENT.	
1964 - NOV. 19 TORONTO, ONT.	B.E. & THEFT	NOT GUILTY	METRO. #1361/38.
1965 - FEB. 12 TORONTO, ONT.	POSS. OF HOUSEBREAKING INSTRUMENTS	2 YRS. - APPEALED	KINGSTON PEN. #2169.
1965 - NOV. 19		APPEAL DISMISSED - APPEALED TO SUPREME COURT OF CANADA AND RELEASED ON BAIL DEC. 24/ 65.	
1967 - MAY 16		APPEAL DISMISSED - RETURNED TO CUSTODY OCT. 2/67.	
1968 APRIL 25		RELEASED ON OR ABOUT THIS DATE ON EXPIRATION OF SENT.	

APPENDIX 89 *see* Volume IAPPENDIX 90 (exhibit 835)
Financial statement of Local 117Financial Statement
Plasterers Local 117 Welfare & SUB Trust FundsDecember 10, 1973.

Assets at Dec. 31, 1972

\$153,492.76

Income: Jan 1 /73 to December 10, 197310,013.43

163,506.19

Cash Disbursements Jan. 1/73 to December 10, 1973

23,639.43

(see attached Exhibit A)

Assets at Dec. 10, 1973

139,866.76NOTE: A judgement of \$10,341.00, and costs against the Trustees was unsuccessfully appealed in October, 1973.

EXHIBIT A

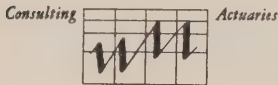
CASH DISBURSEMENTS

Insurance Premiums	\$ 8,282.37
Trustee Expenses	\$ 360.00
Trustee Educational Expenses	\$ 2,972.00
Consulting & Administration Expenses	\$ 7,842.13
SUB Benefits	\$ 468.00
Other (Audit, Union Check-off, etc.)	\$ 3,714.93
	<hr/>
	\$ 23,639.43
	<hr/>

390 Report on the building industry

APPENDIX 91 (exhibit 1075)

Letter re public trustee



HALIFAX
QUEBEC
MONTREAL
OTTAWA
TORONTO
LONDON
WINDSOR
WINNIPEG
SASKATOON
EDMONTON
CALGARY
VANCOUVER

WILLIAM M. MERCER LIMITED

7 KING STREET EAST, TORONTO, ONT. M5C 1A2

TELEPHONE 868-2000

March 11, 1974

Mr. J. W. Lidstone,
Secretary to the Commission,
The Royal Commission of Certain
Sectors of the Building Industry,
145 Queen Street West, Suite 309,
Toronto, Ontario.

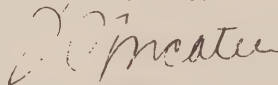
Dear Mr. Lidstone:

Thank you for your February 5th letter.

I am instructed to advise you that the Board is fully aware of the unusual circumstances which exist in this Trust Fund. The Board has already expressed its concern over the purpose and future of the Trust Fund to the Parties signatory to the Declaration of Agreement and Trust, and have advised the Parties that it is the intention of the Board to seek legal counsel and possibly direction from the Court if the Parties have not resolved their difficulties by September 1974 in a manner which will see the number of beneficiaries rise to approximately its former level.

In the circumstances, the Board declines the proposal to appoint the Public Trustee.

Yours very truly,



J. J. McATEER
Secretary
Board of Trustees Plasterers
Local 117 Benefit Trust Fund

JJM:EV
RECEIVED

MAR 12 1974

ROYAL COMMISSION ON CERTAIN
SECTORS OF THE BUILDING INDUSTRY

APPENDIX 92 (exhibit 993)

Report on union welfare funds by P. Wayne Musselman of Touche Ross & Co.

UNION WELFARE FUNDS

Welfare funds are large and growing in Canada. Annual contributions to pension plans alone now exceed \$2 billion. Payments are made by employers on behalf of over three million men. A sizeable portion of these contributions are made on behalf of union men.

I have examined the methods of operations and records of some of the Union Welfare Funds in the construction industry in Ontario and have engaged in discussions with administrators and auditors of funds. Major problems which came to my attention during this review together with possible solutions have been summarized in the following paragraphs.

Control of Receipts

Welfare plan administrators state that amongst their most serious problems are a lack of ^① knowledge of which companies should be contributing to plans and tardiness by employers in contributing. The former problem is mainly due to the fact that there is no control over the employers. A clause in the May 1, 1968 Agreement between the Metro Lathing Association, Local 562 and the original Trustees (A. Simone, P. D. Tullio and L. W. Ballantyne) states "Each employer shall make his required contributions to the Trust Fund. Neither the Trustees nor the Association shall be responsible for the collection of any employer's required contributions".

^② Tardy payers in the unions which I investigated are listed in Schedule 2. For these employers it is normal for copies of contribution reports to be received by the union office well in advance of the reports which go to the welfare administrator with the cheque. Also, contractors will often not remit the full amount due. This makes it necessary for the welfare administrator to set up a receivable and collect the proper amounts at a later date.

Control of receipts could be maximized by:

- * Giving auditors of welfare funds access to the payroll books of employers and requiring auditors to state an opinion on the contribution revenue.
- * Requiring trustees, unions and employers to accept responsibility for controlling the amount and tardiness of receipts.

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Control of Receipts (continued)

- * ⁴ Requiring reports to be issued by employers to individual union men at each pay period illustrating the amounts and hours paid to the welfare administrators.
- * Requiring delinquent employers to post bonds.
- * Quarterly report by the welfare administrators to the individual union men illustrating the transactions made on behalf of that individual union man during the quarter.

Vesting of Benefits

The plans which I investigated did not provide for complete vesting in the employee of monies contributed by the employer. Instead, eligibility for benefits is determined by examining both the beneficiary's hour bank and union membership status. The hours in the hour bank are built up over time by referring to the hour bank rules. For example, the rules for Local 562 Welfare Fund are as follows:

Maximum hours which an employee can build up in a
year - 1,320 hours
Deduction for benefit payment - 110 hours
Hours required to establish a new member - 330 hours
Hours required to reinstate a previously eligible
member - 220 hours
Hours when a man becomes ineligible - under 110 hours

This system results in the following inequities:

- * Beneficiaries go in and out of eligibility continually.
An obvious solution is to alter the maximum hour buildup clause from an annual to a more long term basis.
- * Members lose rights to welfare and supplementary unemployment benefits as soon as they leave the union.
Hours to the beneficiaries' credit in the hour bank for the welfare fund are forfeited. Furthermore, hours to a beneficiary's credit in a supplementary unemployment plan are not available as hour bank hours have not been established.
- * Vesting in pension plans often does not occur until the beneficiary has five or ten years service.

Vesting of Benefits (continued)

- * Pension benefits are often not portable to funds of other unions.

Complete vesting in individuals as monies are contributed together with portability of benefits would alleviate many of the inequities discussed above.

It is important to emphasize that, if vesting is adopted, the method of treatment of plans initiated prior to vesting would have to be considered. The following solutions are possibilities:

- * Establish a cut off date and "vest" hours in specific beneficiaries at that date from records available.
- * Create vesting from commencement of plan by analyzing and changing present hour bank accounting.

Qualifications of Trustees

Generally, responsibility for Union Welfare Funds is vested with Trustees. Some agreements establishing the plans require equal representation from unions and Employers' Associations while others require simply union representation. Typically, unions will be represented by the business agent, other members of the executive and working union men while staff from the Employers' Associations and representatives from employer firms normally act for the Employers' Association. A list of the Trustees of some of the plans which I examined is included in Schedule I.

I concluded that Trustees such as those listed in Schedule I are:

- * Not specialists in financial, administration or other aspects of welfare benefit plans.
- * Not independent in decision making. For example, under the present system, trustees who are business agents may not approve of benefits being given to eligible plan members simply because they are not union members in good standing.

Minimum requirements for Trustees to alleviate the factors outlined above should be established.

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Accounting Records - Trust Funds

Beneficiaries do not have direct access to welfare fund records.

For example, the May 1, 1968 Agreement between the Lathing Association, Local 562 and the Trustees states "The Trustees shall keep appropriate accounts and records of the accounts relating to the Trust Fund which shall be open to inspection and audit at all reasonable times by a person or persons designated by the Association and the Union. No persons other than those persons designated in writing by the Association and the Union shall have the right to demand or be entitled to any accounting from the Trustees". This clause is representative of most agreements.

Expenditures for Benefit Conventions

Conventions are generally held at exotic locations and are well attended by the Trustees who are permitted to travel first class. In fact, most of the Trustees travel economy class and use the proceeds from the rate differential to take their wives on the trip. Schedules 3 and 4 illustrate the expenses incurred in 1971 and 1972 for Local 562 Trustees.

Agreements

I observed the following with regard to agreements:

- * Agreements between employers who are not members of the Contractors Association, the Association and the Trustee are often not signed. These contracts outline the duties of employers who are not members of the Contractors Association but who are paying into the Welfare Fund on behalf of employees.
- * Occasionally agreements between the Trustees, Unions and Employers Association do not get signed.
- * Minutes of Trustees' Meetings are often not signed.
- * Union men rarely receive details of the plans upon joining a union.

This report has emphasized the problems which exist as opposed to outlining definite solutions. It is not considered within the terms of reference of the Commission to perform the latter task as this would involve a detailed study of numerous unions throughout the province by a committee comprised of specialists from a variety of fields. However, suggestions to such a future committee include:

- * Requirement that there be equal representation between union and employers in dealing with welfare fund matters.
- * Requirement that funds be audited by independent professional auditors and that the statements be filed publicly.
- * Full disclosure by persons who have a relationship with trust funds of such items as commissions, gratuities and other remunerations earned.
- * Requirement that trustees and administrators be bonded.

SCHEDULE I

TRUSTEES OF UNIONS
WHICH HAVE BEEN EXAMINED

Boilermakers National Health & Welfare Fund

S. Petronski
Business Manager

J. D. Carroll
International Vice-President

D. G. Whan
International Vice-President

Mario Dube
Business Agent Lodge #73

L. LeClair
Business #146

W. J. Gibson
Labour Relations Manager
Canadian Bechtel Limited

J. R. Ashton
Babcock & Wilcox Canada Ltd.

R. J. Dryden
Industrial Relations Manager
Dominion Bridge Co.

L. M. Guest
Personnel Manager
Horton Steel Works Ltd.

A. Dibblee
Procor Limited

G. Henry
Business Manager Lodge #555

A. Christie
Combustion Engineering

G. Fewer
Business Manager Lodge #203

S. Kerby
Toronto Iron Works Ltd.

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Local 183 Members Benefit Fund

J. Stefanini
Business Manager

M. A. O'Brien
Secretary Treasurer

T. Spada

L. McNally
Cristan Construction Co. Ltd.

L. H. Elson
Bramall & Co. Construction Ltd.

V. P. Raponi
Repac Construction

Lathers Union Local 562 Employee Benefit Trust

L. W. Ballantyne
Secretary Treasurer & Business Agent

A. (Gus) Simone
Business Manager

Mario Palma
Empire Lathing

D. Valsi

Cement Masons Local 598 Welfare Trust Fund

F. Amis

Z. Jedrasik

E. Zanetti
Armoured Floor Ltd.

F. Moxon
Duron Floor Co. Ltd.

G. Becigneul
The Toronto Construction Association

A. Prociello

Marble Tile & Terrazzo Helpers Local 56 Welfare Trust Fund

F. Zgavec

Wm. Hanza

Chester DeToni
Business Manager

Olvino DeCarli
Connolly Marble, Mosaic & Tile Co. Ltd.

John Grossi
Terrazzo, Tile & Marble Guild of Ontario

Robert Bortolotti
York Marble & Tile Co. Ltd.

Marble, Tile & Terrazzo Local 31 Welfare Trust Fund

O. DeCarli
Connolly Marble Mosaic & Tile Co. Ltd.

J. Grossi
Executive Director
Terrazzo Tile & Marble Guild of Ontario

R. Bortolotti
York Marble & Tile Co. Ltd.

L. Bozzato

D. DeMonte

G. Gould

LIST OF DELINQUENT EMPLOYERSMarble, Tile & Terrazzo Helpers Local 56
Employee Benefit Fund

Leader Terrazzo Tile Mosaic Ltd.
Mercury Terrazzo Co. Ltd.
Desco of Ontario Ltd.

Lathers' Union Local 562 Employee Benefit
Trust

Acme Lathing Co. Ltd.
Ballantyne Lathing Ltd.
DMD Triangle Lathing & Acoustics Co. Ltd.
P J Daly Plastering
Downsview Lathing Co. Ltd.
Fanelli Lathing Ltd.
Kawantha Lathing
Northdown Drywall & Construction Limited
Official Drywall
Royal Lathing & Drywall
Suburban Lathing & Acoustics
Herbert S. Thompson & Son Ltd.
Upton Lathing Ltd.
Weston Lathing Co.
York Lathing

Ontario Plasterers' Welfare Trust Fund
Local 48

Asbestos Covering Company Limited
Findley-Jones Insulation Co. Ltd.
Finestone Contracting
A. V. Hallam Ltd.
Inservac (1965) Ltd.
Lath-Plast Ltd.
C. Strauss Ltd.

Boilermakers National Health and Welfare
Fund (Canada)

Algoma Maintenance
Ascot Millwrighting
Baird Oil Equipment
John N. Brochlesly
Brown & Root
Durall Construction
Drummond Welding
Fischbach & Bedard
Francis Hankin & Co. Ltd.
Foresteel Industries Ltd.
Minto Machine & Welding
Ralph M. Moore Ind.
PFP Installations
Research-Cottrell (Canada) Ltd.

Toronto Marble Tile & Terrazzo Local 31
Welfare Trust Fund

Belmont Plastering Co.
Capital Mosaic
Chamallo Construction Ltd.
Duron Ontario Ltd.
Glenbow Construction
Goldstar Plastering
Mercury Terrazzo Co. Ltd.
Reliable Plastering
Sandrin Precast Ltd.

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SCHEDULE 3

EXPENSES APPROVED BY TRUSTEES

1971 CONFERENCES

Location of Conferences

National Conference - Miami
Canadian Conference - Vancouver

<u>Approved Expenditures</u>	<u>Total</u>	<u>Vancouver</u>	<u>Miami</u>		
		<u>L. Ballantyne</u>	<u>D. Valsi</u>	<u>T. Ballantyne</u>	<u>A. Simone</u>
Registration and hotel	\$ 130.00	\$130.00			
Airfare-Vancouver	212.00	212.00			
Expenses	425.00	425.00			
Registration and hotel	345.00		\$115.00	\$115.00	\$115.00
Expenses	<u>1,929.00</u>		<u>653.00</u>	<u>653.00</u>	<u>623.00</u>
	<u>\$3,041.00</u>	<u>767.00</u>	<u>768.00</u>	<u>768.00</u>	<u>738.00</u>

SCHEDULE 4

EXPENSES APPROVED BY TRUSTEES

1972 CONFERENCES

National Conference Expenses San Diego
Canadian Conference Expenses Jasper Park Lodge

	<u>Total</u>	<u>D. Valsi</u>	<u>M. Palma</u>	<u>A. Simone</u>	<u>L. Ballantyne</u>
San Diego					
June 29, 1972	\$ 480.00	\$ 120.00	\$ 120.00	\$ 120.00	\$ 120.00
August 14, 1972	480.00	120.00	120.00	120.00	120.00
August 14, 1972	240.00	60.00	60.00	60.00	60.00
October 16, 1972	<u>4,240.00</u>	<u>1,060.00</u>	<u>1,060.00</u>	<u>1,060.00</u>	<u>1,060.00</u>
	<u>5,440.00</u>	<u>1,360.00</u>	<u>1,360.00</u>	<u>1,360.00</u>	<u>1,360.00</u>
Jasper Park Lodge					
June 29, 1972	220.00	55.00	55.00	55.00	55.00
August 18, 1972	<u>3,456.00</u>	<u>864.00</u>	<u>864.00</u>	<u>864.00</u>	<u>864.00</u>
	<u>3,676.00</u>	<u>919.00</u>	<u>919.00</u>	<u>919.00</u>	<u>919.00</u>
	<u>\$9,116.00</u>	<u>\$2,279.00</u>	<u>\$2,279.00</u>	<u>\$2,279.00</u>	<u>\$2,279.00</u>

APPENDIX 93 (exhibit 253)
Financial statement of Local 562

WOOD WINE AND MEATL LATHING INTERNATIONAL UNION
LOCAL 562 - TORONTO ONTARIO

STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR SIX MONTHS PERIOD ENDING DECEMBER 31, 1971

CASH ON HAND AND IN BANK JULY 1, 1971 302473

DEBIT	274383
CASH	<u>28090</u>
	302473

RECEIPTS

CHECK OFF DUES	728430	
UNION DUES FROM MANAGEMENT INCLUDING TRAWALL MEMBERS	101300	8294970
		<u>859743</u>

DISBURSEMENTS TO UNION

HEADQUARTERS TAX	1235405	
TRUSTEES EMPLOYMENT BENEFIT FUND	90000	
PROVINCIAL BUILDING AND CONSTRUCTION TRADES COUNCIL	44750	
DUES RELATED TO MEMBERS	10300	
RETURN OF OVERPAYMENT OF CANADA PENSION PLAN TO I.B.A.N.A.T.O.	1672	
PAYMENT TO LOCAL 97 - TORONTO	34940	
do do LOCAL 145 - HAMILTON	2800	
do do LOCAL 538 - SUDBURY	30000	
do do LOCAL 555 -	10670	1465577
		<u>7131866</u>

DISBURSEMENTS - EXPENSES

ADVERTISING - HELP WANTED	27030	
AUDIT		
EXTERIOR	25000	
INTERIOR	90	34000
		<u>1725</u>
BANK CHARGES		

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	EXPENSES	
GENERAL EXPENSE - CASH SHORTAGE IN ORGANIZATION	260000	
BUSINESS AGENTS' AND SECRETARIES EXPENSES	675400	
DONATIONS	18500	
EQUIPMENT PURCHASES - GERTNER	600000	
FIRE INSURANCE	8600	
HEAT, HYDRO, WATER	24019	
HONORARIUM PAID TO PRESIDENT	9600	
LEGAL EXPENSES	16600	
MEETING EXPENSES	131226	
NET WAGES PAID TO BUSINESS AGENTS AND SECRETARY	2060775	
NET WAGES PAID TO OFFICE EMPLOYEES	277500	
OFFICE CLEANING	24575	
OFFICE EXPENSES	86112	
POSTAGE	33192	
REBATE OF OHSIP DUES TO MEMBER	6770	
" DUES TO MEMBER	2000	
REPAIRS AND MAINTENANCE	27396	
RECEIVED GENERAL OF CANADA - PAYMENT COVERING TAX DEDUCTIONS FROM EMPLOYEES' WAGES ALONG WITH CANADA PENSION PLAN CONTRIBUTIONS, INCLUDING UNIONS SHARE	669646	
RE-PAYMENT TO Q.E. INSURANCE COMMISSION FOR TASCANIO	8600	
VACATION PAY - PAID TO BUSINESS AGENTS AND SECRETARY	166888	
AGENT	180000	
TELEGRAMS AND TELEPHONES	65243	
UNEMPLOYMENT INSURANCE STAMPS	39335	
REMUNERATION FOR POLICING JOBS - PAID TO MEMBERS	9500	
CHRISTMAS EXPENSE	21646	
ADDITIONAL EXPENSES INCURRED IN CONSTRUCTION OF NEW HEADQUARTERS	46305	
PAYMENT TO J. H. TOLLEY & ASSOCIATES FOR COLLECTION OF CHECK-OFF DUES	40030	5781633

CASH ON HAND AND IN BANK DECEMBER 31, 1971

1950233

BANK	1950231
CASH	02
	<u>1950233</u>

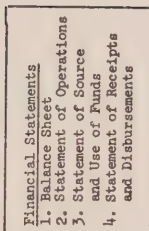
APPENDIX 94 (exhibit 1039)

Overview of union accounting system

OVERVIEW OF UNION ACCOUNTING SYSTEM

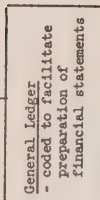
Financial Statements

Prepared monthly



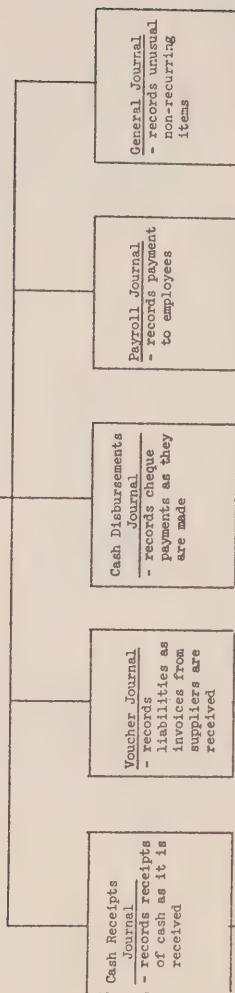
General Ledger

Updated and balanced monthly



Books of Original Entry

Updated with current transactions daily



Documents

Handled hourly

- deposit slips
- cheques payable to union
- checkoff forms
- correspondence from contractors
- supporting payments
- correspondence for miscellaneous receipts
- supplier invoices
- purchase orders
- cheques
- payroll cheques
- correspondence with employees
- employee deduction forms
- miscellaneous correspondence and schedules
- records unusual non-recurring items

BALANCE SHEET AT DECEMBER 31, 1973
(with comparative figures at December 31, 1972)

[illegible]

Signed on behalf of the Union Executive

President

..... Business Manager

UNION ACCOUNTING
SCHEDULE 3NAME OF UNION
LOCALSTATEMENT OF OPERATIONS AND MEMBERS' EQUITY
FOR THE YEAR ENDED DECEMBER 31, 1973

(with comparative figures for the year ended December 31, 1972)

	<u>1973</u>	<u>1972</u>
Revenue		
Membership dues	\$0,000	\$0,000
Checkoff	0,000	0,000
Fines	0,000	0,000
Special levies	0,000	0,000
Initiation	0,000	0,000
Reinstatement	0,000	0,000
Interest and dividend income	<u>0,000</u>	<u>0,000</u>
	0,000	0,000
Expenses		
Salaries and benefits		
- Executives	0,000	0,000
- Representatives	0,000	0,000
- Office	0,000	0,000
Dues to affiliations	0,000	0,000
Strikes	0,000	0,000
Organization and promotion	0,000	0,000
Building maintenance	0,000	0,000
Rent	0,000	0,000
Automobile	0,000	0,000
Depreciation	0,000	0,000
Donations	0,000	0,000
Interest	0,000	0,000
Legal and audit	0,000	0,000
Office supplies	0,000	0,000
Postage	0,000	0,000
Printing and stationery	0,000	0,000
Telephone and telegraph	0,000	0,000
Travel	<u>0,000</u>	<u>0,000</u>
	0,000	0,000
Gain for the year	0,000	0,000
Members' Equity - January 1, 1973	<u>0,000</u>	<u>0,000</u>
Members' Equity - December 31, 1973	<u>\$0,000</u>	<u>\$0,000</u>

NAME OF UNION
LOCALSTATEMENT OF SOURCE AND USE OF FUNDS
FOR THE YEAR ENDED DECEMBER 31, 1973

(with comparative figures for the year ended December 31, 1972)

	<u>1973</u>	<u>1972</u>	
Source of funds			
Gain for the year	\$0,000	\$0,000	
Add items not requiring an outlay of funds			
Depreciation	0,000	0,000	
Increase in mortgage	<u>0,000</u>	<u>0,000</u>	
	0,000	0,000	
Use of funds			
Purchase of automobiles	<u>0,000</u>	<u>0,000</u>	
Increase in working capital	\$0,000	\$0,000	
	<u><u> </u></u>	<u><u> </u></u>	
			Increase (Decrease)
Represented by:			
Current assets	\$0,000	\$0,000	\$0,000
Current liabilities	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
Working capital	\$0,000	\$0,000	\$0,000
	<u><u> </u></u>	<u><u> </u></u>	<u><u> </u></u>

UNION ACCOUNTING
SCHEDULE 5

NAME OF UNION
LOCAL

STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE YEAR ENDED DECEMBER 31, 1973

(with comparative figures for the year ended December 31, 1972)

	<u>1973</u>	<u>1972</u>
Bank balance in current account at January 1	\$0,000	\$0,000
Receipts		
Membership dues	0,000	0,000
Checkoff	0,000	0,000
Fines	0,000	0,000
Special levies	0,000	0,000
Initiation	0,000	0,000
Reinstatement	0,000	0,000
Interest and dividend income	0,000	0,000
	<u>0,000</u>	<u>0,000</u>
	0,000	0,000
Disbursements		
Loans	0,000	0,000
Salaries and benefits	0,000	0,000
Dues to affiliations	0,000	0,000
Strikes	0,000	0,000
Organization and promotion	0,000	0,000
Building maintenance	0,000	0,000
Rent	0,000	0,000
Automobile	0,000	0,000
Donations	0,000	0,000
Interest	0,000	0,000
Legal and audit	0,000	0,000
Office supplies	0,000	0,000
Postage	0,000	0,000
Printing and stationery	0,000	0,000
Telephone and telegraph	0,000	0,000
Travel	0,000	0,000
	<u>0,000</u>	<u>0,000</u>
	0,000	0,000
Bank balance in current account at December 31	<u>\$0,000</u>	<u>\$0,000</u>

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UNION ACCOUNTING SCHEDULE 6

GENERAL LEDGER CODE OF ACCOUNTS

ASSETS - 001 - 099

Bank accounts - Current	001
- Payroll	002
Interest receivable	003
Dividends receivable	004
Investments	005
Land	006
Buildings	007
Furniture	008
Equipment	009
Automobiles	010
Prepaid insurance	011
Prepaid taxes	012
Deposits	013
Deferred charges	014

LIABILITIES AND EQUITY - 100 - 199

Bank loan	100
Other loans	101
Accounts payable	102
Accrued liabilities	103
Sales tax payable	104
Legal and audit fees payable	105
Income taxes payable	106
UIC payable	107
CPP payable	108
Accrued vacation pay	109
Due to International Union	110
Mortgage payable	111
Members' Equity	190
Operation account	195

REVENUE - 200 - 299

Membership dues	201
Checkoff	202
Fines	203
Special levies	204
Initiation	205
Reinstatement	206
Interest	207
Dividend income	208

EXPENSES - 300 - 399

Salaries	301
Benefits	302
Strikes	303
Organization	304
Promotion	305
Building maintenance	306
Rent	307
Automobile	308
Donations	309
Interest	310
Legal and audit	311
Office supplies	312
Postage	313
Printing	314
Stationery	315
Telephone and telegraph	316
Travel	317
Depreciation	318
Dues to affiliations	319

UNION ACCOUNTING
SCHEDULE 7GENERAL LEDGERBANK - CURRENT ACCOUNTACCOUNT NO. 1

<u>Date</u>	<u>Explanation</u>	<u>Folio</u>	<u>Dr</u>	<u>Cr</u>	<u>Balance</u>
Jan. 1					\$ 1,000.00
Jan. 31		CR 4	\$438,300.21		
		CD 9		\$321,000.09	118,300.12

UNION ACCOUNTING
SCHEDULE 9

VOUCHER JOURNAL

<u>Date</u>	<u>Name</u>	<u>Credits</u>		<u>Debits</u>							<u>Printing and Stationery</u>	
		<u>Accounts Payable</u>	<u>Other</u>	<u>Operating Expenses</u>	<u>Organization & Promotion</u>	<u>International Union</u>	<u>Travel</u>	<u>Telephone and Telegraph</u>	<u>Interest</u>	<u>Office Supplies</u>	<u>Printing and Stationery</u>	
Jan. 16	X Stationery Co.	\$ 425.51	\$0,000.00	\$0,000.00	\$0,000.00	\$0,000.00	\$0,000.00	\$0,000.00	\$0,000.00	\$0,000.00	\$425.51	
Jan. 16	Bell Canada	1,041.32						1,041.32				

WORK ROUTINE SLIP

DATE REC'D.....
P.O. O.K.....
PRICES O.K.....
EXTENSIONS O.K.....
APPROVED.....
ENTERED V.J.....
PAID BY CHEQUE $\frac{1}{2}$

UNION ACCOUNTING
SCHEDULE 11

CASH DISBURSEMENTS JOURNAL

<u>Date</u>	<u>Cheque Number</u>	<u>Payee</u>	<u>Debits</u>		<u>Credits</u>		
			<u>Accounts Payable</u>	<u>Other</u>	<u>Bank</u>	<u>Other</u>	<u>Discounts</u>
Jan. 25	1026	X Stationery Co.	\$ 425.51		\$ 417.00		\$ 8.51
Jan. 25	1027	Bell Canada	1,041.32		1,041.32		
Jan. 31	1028	Payroll Bank Account		\$9,159.64 (2)	9,159.64		
			\$	\$	\$	\$	\$

SUBSIDIARY LEDGER

Name _____ Telephone No. _____
Address _____ Social Insurance No. _____

History with Union

<u>Date</u>	<u>Explanation</u>	<u>Dues</u>	<u>Fines</u>	<u>Special Levies</u>	<u>Initiation</u>	<u>Reinstatement</u>
Jan. 16		\$ 4.00				
↓						
Dec. 31						
		\$	\$	\$	\$	\$

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APPENDIX 95 (exhibit 1045)

Report of J.B. Pearce on Local 18

UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS OF AMERICA

LOCAL 18

HAMILTON

REPORT ON EXAMINATION
MADE ON YEARS 1968 - 1970

J. B. PEARCE, C.A.

March 8, 1974

UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS OF AMERICA

LOCAL 18

HAMILTON

REPORT ON EXAMINATION
MADE ON YEARS 1968 - 1970

I was directed to perform an examination of the records of Local 18 for the specific purpose of:

- (1) determining the amount of an alleged defalcation
- (2) learning the identity of the responsible party.

Scope

After reviewing the reports on Local 18 which had been filed earlier and familiarizing myself with the transcripts of the evidence given at the hearings held in Hamilton, I determined that the following procedures should be performed:

- (1) review the union local's method of reporting and accounting for cash and review the various office procedures in effect
- (2) determine the sequence of receipts that the union should have had on hand during the above years and determine which individual numbers and series were missing by a numerical check of these receipts
- (3) compare in detail all the totals of the receipts with the duplicate deposits and the bank statements
- (4) review the material submitted by Mrs. Hazel Nash to the Royal Commission concerning initiation fees paid by members covering the period January 1969 to July 1970
- (5) review the strike fund records.

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Conclusions

I was unable to reach any conclusions on the specific purpose of this investigation due to the unsatisfactory record keeping procedures which the union employs. However, conclusions which are relevant to the Commission are as follows:

- (1) Books of account were not prepared on a double entry system. Also, internal controls incorporated in the office procedures were inadequate.
- (2) Money was neither deposited to the bank on a regular basis nor deposited intact.
- (3) Some of the adding machine tapes which were attached to a groups of receipts were manipulated. Although I could trace all the individual receipt totals to the tape, the tape totals (which equalled the amount deposited) were low.
- (4) Control over the issuance, use and retention of the receipts was inconsistent. I identified 772 receipts missing from January 1968 to December 1970.
- (5) Membership ledgers are not balanced and agreed to the local's reported membership income.
- (6) Deposits were made to the local's bank accounts which could not be identified.
- (7) Several errors and omissions were discovered in the register of initiation fees submitted by Mrs. Hazel Nash
- (8) The local did not maintain any separate records to record those strike assessments received by them after assuming responsibility from the trustees.

Details of our examination on each of the above areas and the explanations of our conclusions follow.

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Books of Account and Internal Controls

After discussing the various office procedures and controls with the present office staff and the local's former employee, Mrs. H. Nash, I concluded that the office procedures and controls were not satisfactory.

The system is still not entirely satisfactory. The only additional control procedure employed since the investigation period was the addition of a daily sheet which summarizes the monies received by the local and describes the nature of the payment, i.e., dues, strike assessment, checkoff, etc. The addition of this form allows the union to be able to reconstruct the monies received in the event of any of the receipts being lost or destroyed.

Bank Deposits

Deposits were made during January 1968 - September 1970 on an irregular basis and were supported by receipts attached to the duplicate deposit. No accounting procedures appeared to be in effect governing the method of banking of deposits or control over used and unused receipt books as evidenced by instances of deposits of funds made as much as four to six months after the monies were received and receipt books being used out of sequence. (See Receipts.)

The local's practice of detaching the pages from the receipt books and attaching them to deposit slips without any form of numerical sequence check enhanced the possibility of misappropriating funds without fear of being discovered since the amounts recorded as the local's income for the years were only those monies deposited to the bank accounts.

No attempt appeared to have been made to balance the membership ledgers on either a weekly, monthly or yearly basis for comparison to the income recorded by the local.

Thus, the internal controls over cash and receipts were suspect during the period under review. Although these controls have been strengthened by the

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auditor, I maintain that they could be more effective if the local instituted a double entry bookkeeping system, transcribed the information from these daily control sheets to a cash receipts book and deposited the funds on a regular basis.

Detailed Examination of Bank Deposits

I performed the following procedures:

- (1) compared the total of the receipts attached to the duplicate deposit slips to the tape total prepared by the union
- (2) traced the duplicate deposits to the bank statements
- (3) reviewed the bank statements for deposits made not substantiated by receipts.

The objective was to determine that all the monies received by the union were in fact deposited into the local's bank accounts and that the backup receipts totalled to the relevant deposit.

I noted several instances where the backup receipts did not agree to the deposit. Several of these required more detailed examination as noted:

	<u>Deposit</u>	<u>Backup Receipt Total</u>	<u>Difference</u>
September 1968	\$3,294.00	\$3,374.00	\$ 80 deposit less
September 1968	1,947.00	2,012.00	65 deposit less
December 1969	1,300.00		
	1,820.80	3,224.00	103.20 \$8 reflected as 80¢
October 1970	290.00		
	<u>485.00</u>	<u>845.00</u>	<u>360.00</u> deposit less
	\$8,846.80	\$9,455.00	\$608.20
	<u><u> </u></u>	<u><u> </u></u>	<u><u> </u></u>

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In the first three instances I could not reconcile the total of the receipts by the local with my independent total even though I agreed all the individual receipts to the local's tapes. The local's tapes had been deliberately manipulated.

In the last instance it appeared that there were several receipts attached which had not been included in the local's total. The receipts totalled \$845 as against the deposit of \$485.

Receipts

In order to determine the sequence of receipts that were printed for the union during the years 1968 - 1970 I interviewed the printers used by the local. I wanted to establish the numbers' series that the local should have had before performing a numerical sequence check to determine which series the local actually issued. I was unable to establish precisely which numbers' series had been issued, as the union's printer ceased operations in 1970.

I documented the receipts issued by the union for the period January 1968 to December 1970 and accounted for the numerical continuity, thereby revealing the missing single numbers and series.

This test also revealed that control over the issuance and use of these receipts was not very effective as I found that they were used out of sequence and for purposes other than for recording members' dues and fees. (For example, Series 002 - 900 was used in 1971 by the administrators of the local's C.A.P. plan.)

In summary, my numerical sequence test revealed the following number of receipts missing:

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	<u>Total by Year</u>	<u>Comments</u>
1968	345	1 book of 295 receipts missing
1969	167	mostly attributable to individual pages of 10 receipts not accounted for
1970	260	mostly single receipts which had been carefully clipped from the receipt pages. 60 of the individual receipts related to the month of March 1970
	<hr/>	
Total missing January 1968 - December 1970	772	
	<hr/>	

Investigation of the Membership Ledgers

As I highlighted 60 missing receipts in the month of March 1970, I decided to extend the scope on my receipts check to encompass a detailed examination of the membership ledgers and attempt to attribute these missing receipts to membership dues received.

This test was performed assuming that if the office procedures for recording dues were effective, the membership ledgers should reflect accurately all membership dues. The office procedure was to record the payment on the membership ledger, the dues book and the receipt respectively as the cash was received.

The results showed that there were several clerical errors where monies paid in March were actually recorded in either February or April 1970 and that, of the monies reflected as membership dues on the receipts, I was unable to locate sixteen membership cards. Seven members were revealed whose dues had not been reflected on their membership cards totalling \$128.

As the results of this test proved inconclusive through lack of reliance on the membership ledgers, I discarded the further step of systematically documenting the dues from the membership ledgers for the year 1970 for the following reasons:

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- (1) uncertainty that all the membership ledgers were on hand
- (2) absence of a control figure with which to compare the overall total as the ledgers themselves were not self balancing nor agreed to the local's books of account.

Unidentified Deposits

In tracing deposit slips to the bank statements, I identified the following deposits that had been made for which the local had no duplicate deposits or backup receipts:

Schedule 1	1968	\$ 1,457.95
Schedule 2	1969	7,698.21
Schedule 3	1970	<u>14,372.34</u>
		<u>\$23,528.50</u>

Deposits were made on an irregular basis during the period January 1968 to September 1970. (I noted several deposits where the attached receipts were for monies received four to six months previously.) However, deposits became more regular after the appointment of the auditor.

The local should have exercised greater control in the addition of the receipts and should have retained copies of all of the deposits together with the relevant backup information. The treasurer should be responsible for maintaining adequate records of the deposits made to the bank accounts.

Initiation Fees Register

This register, submitted to the Royal Commission by Mrs. Hazel Nash, purported to represent all the members initiated from January 1, 1969 to July 31, 1970.

I have checked this register in detail and have been able to substantiate

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most of the entries made by Mrs. Nash. However, many errors were uncovered in my investigation and, in several instances, I disproved Mrs. Nash's claim that the fees were not recorded on the receipts and deposited in the local's bank account. Other instances remain unclear as neither Mrs. Nash nor I could determine when or where the initiation fees were recorded. (Schedule 4.)

I cannot conclude that these monies were not recorded in the books of account as these funds could have been included in those deposits made to the bank accounts for which I could find no backup documentation. (See Bank Deposits above and Schedules 1, 2 and 3.)

Strike Fund Accounting

This register represents an accounting of the 1969 strike fund by the appointed trustees. Mr. Romeo Charbonneau submitted this register and he was one of the trustees.

My examination of this register was limited to tracing all the deposits as recorded in the register to the bank statements. I found no discrepancies in the items recorded. I could not determine on an overall basis that all the assessments that should have been received were in fact paid and recorded in the local as the amount of the assessment levied on the members appeared to be determined by the individual members' salaries.

It was the duty of the trustees to ensure that all the members paid their assessments and several assessment books and duplicate receipts have been submitted as evidence of their performance of this function.

These records were not maintained by the local when the trustees' duties were terminated by the executive in the month of January 1970. As of that date, all assessments received were recorded via the receipts and the clippings from the pages of the receipt registers were purported to substantiate deposits made by the local to the strike fund bank account, CU III. However no duplicate deposits with attached

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receipts were found by me on the premises of the local as evidence of this practice. What I did discover were unidentified deposits made to the strike fund during 1970 as detailed on Schedule 3.

As the local did not maintain this register or retain the duplicate deposits with backup receipts, I was unable to determine that those missing receipts in 1970 were in fact used for the purpose of recording strike assessments.

SCHEDULE 1

UNIDENTIFIED DEPOSITS
FOR THE YEAR 1968

<u>Date</u>	<u>Amount</u>	<u>Bank</u>
February 28	\$ 321.47	CU I
April 11	80.00	CU I
July 16	550.00	CU III
November 18	<u>506.48</u>	CU I
Total for year	<u>\$1,457.95</u>	

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SCHEDULE 2

UNIDENTIFIED DEPOSITS
FOR THE YEAR 1969

<u>Date</u>	<u>Amount</u>	<u>Bank</u>
January 20	\$ 25.00	CU III
March 28	3,206.08	CU III
April 21	200.00	CU I
May 15	1,453.10	CU III
22	<u>520.40</u>	CU III
	<u>1,973.50</u>	
June 3	60.00	CU I
9	244.52	CU III
9	54.60	CU III
12	367.65	CU III
24	513.00	CU III
27	<u>207.60</u>	CU III
	<u>1,447.37</u>	
July 2	212.06	CU III
9	34.30	CU I
15	117.05	CU III
22	<u>102.80</u>	CU III
	<u>466.21</u>	
August 6	8.45	CU III
8	59.00	CU I
12	91.60	CU III
26	<u>171.00</u>	CU III
	<u>330.05</u>	
October 31	<u>50.00</u>	CU I
Total for year	<u>\$7,698.21</u>	

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SCHEDULE 3

UNIDENTIFIED DEPOSITS
FOR THE YEAR 1970

<u>Date</u>	<u>Amount</u>	<u>Bank</u>	<u>Date</u>	<u>Amount</u>	<u>Bank</u>
January 7	\$ 50.00	CU I	July 3	(1) \$ 377.90	CU III
30	<u>957.70</u>	CU II	6	395.00	CU III
	1,007.70		30	<u>1,724.25</u>	CU I
				<u>2,497.15</u>	
February 2	(1) 402.81	CU III	August 11	100.00	CU III
5	939.70	CU III			
18	373.50	CU III	September 1	136.00	CU I
18	1,545.72	CU II	15	285.00	CU III
18	<u>177.22</u>	CU I	16	80.00	CU I
	3,438.95		30	<u>25.00</u>	CU I
				<u>526.00</u>	
March 3	10.00	CU II			
12	431.25	CU III	October 28	54.00	CU I
13	(2) <u>62.00</u>	CU III	31	(3) 204.97	CU I
	503.25		31	(3) 480.66	CU II
			31	(3) <u>920.90</u>	CU III
April 2	200.00	CU I		<u>1,660.53</u>	
8	(1) 802.13	CU III	November 3	327.75	CU I
21	130.00	CU I			
23	(1) 259.00	CU III	December 4	172.00	CU I
30	(3) 142.30	CU I	22	<u>129.00</u>	CU I
30	(3) <u>1,255.18</u>	CU III		<u>301.00</u>	
	2,788.61				
May 8	24.00	CU I	Total for year	\$14,372.34	
8	(1) 585.50	CU III		<u><u> </u></u>	
29	120.00	CU I			
29	(1) <u>335.90</u>	CU III			
	1,065.40				
June 11	156.00	CU I			

- (1) Strike Fund
 (2) Loan
 (3) Interest

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SCHEDULE 4

INFORMATION CONCERNING THE INITIATION FEES REGISTER JANUARY 1969 - JULY 1970

Details of initiation fees documented as untraceable on the register for which we also could find no receipts:

No.	Name	Amount Untraceable per	Amount per	Initiation Date
		Mrs. Nash	Accountants	
259	J. Finlay	\$ 50.00	\$ 50.00	February 11, 1969
750	H. Wardell	190.00	190.00	February 1969
836	James Lewis	60.00	60.00	
663	Eric Ludin	160.00	160.00	October 8, 1969
128	Paul Head	20.00	20.00	October 31, 1969
421	Din Marchand	30.00	30.00	September 5, 1969
505	M. Iacoviello	90.00	90.00	November 4, 1969
409	Charles Bald	60.00	60.00	October 28, 1969
240	Din Snively	165.00	115.00	
980	G. Arnold	225.00	225.00	
981	Hans Skinder	220.00	220.00	
489	A. J. Turingia	120.00	120.00	
957	M. Gancalues	30.00	30.00	February 7, 1970
168	James R. Bydges	220.00	220.00	
1007	Mike Clancy	11.00	11.00	
1037	M. Nadolyehry	5.00	5.00	
1033	D. Blythe	10.00	10.00	
967	Ralph Mete	45.00	45.00	
968	Walter Haifel	225.00	225.00	
Total		\$1,936.00	\$1,886.00	

Details of initiation fees traced to the local's receipt books documented as untraceable on the register:

No.	Name	Amount Untraceable per	Amount Traced to	Date Received
		Mrs. Nash	Receipts	
149	J. Dinisho	\$ 28.00	\$ 28.00	1969
619	L. Markovich	110.00	110.00	January 1970
666	G. Muhot	55.00	55.00	January 1970
594	Harris Sabman	50.00	50.00	January 1970
867	John Sattler	100.00	100.00	February 1970
240	Don Snively	165.00	50.00	November 1969
515	Alex Joseph	20.00	20.00	September 1970
813	Earl Ryan	35.00	35.00	February 1970
960	James D. Kemp	155.00	155.00	March 1970
970	John Turingia	100.00	100.00	March 1970
891	F. D. Grave	25.00	25.00	February 1970
184	Tony Garman	68.00	68.00	January 1970
253	John Bat	6.00	6.00	July 1970
Total		\$ 917.00	\$ 802.00	

